

BEFORE THE EXPERT PANEL APPOINTED TO DETERMINE THE DELMORE APPLICATION

In the matter of the Fast Track Approvals Act 2024 (“FTAA”) appointed under section 50 and Schedule 3 of the FTAA to determine:

- (a) Establishing and subdividing approximately 1213 dwellings across a site area of approximately 109 hectares in the Future Urban Zone;
- (b) Undertaking associated works, including bulk earthworks, and provide infrastructure and an on-site wastewater treatment plant and for stormwater discharges;
- (c) Changing consent notice conditions; and
- (d) Undertaking an activity that will or may modify or destroy the whole or any part of any archaeological site or sites.

Expert Panel

David Hill (Chair)

Dr Claire Kirman (Member)

Michael Parsonson (Member)

Expert Panel Comments received under Section 53 of the FTAA: 4 May 2026

Details of any hearing under Section 57 of the FTAA: No hearing was held.

Date of Decision: 10 August 2026

Date issued: 10 August 2026

Record of Decision of the Expert Panel under Section 87 of the Fast-Track Approvals Act 2024

PREFACE

1. This Preface does not constitute part of the Expert Panel's decision on Vineway Limited's Delmore Application but takes the opportunity to clarify a particular matter that has exercised media and community interest in recent weeks. That is, the proposal to tanker treated wastewater off-site at times.
2. The implication taken is that this approval enables continual, regular tankering off-site, at volume and with minimal pre-treatment - and that Whangarei is to be the destination for those tankers.
3. That is not what has been approved.
4. Tankering off-site is approved to occur only under the following scenarios:
 - (a) If public connection is confirmed as being available for Stage 1A by 31 December 2031 (a threshold of up to 264 dwellings is conditioned) such that interim short-term tankering off-site rather than construction of the WWTP and its associated irrigation / infiltration network makes sense; or
 - (b) In drier summer months during Stage 1 when low-flow conditions in the stream network make irrigation / infiltration discharge volumes inadvisable (a maximum permitted on-site discharge of 101.5m³/day is set from December to February with any remainder – estimated at 5 - 7 tankers per day once build-out of Stage 1 is complete - to be discharged off-site).
5. Under scenario (a) above, that wastewater would receive solids screening only.
6. Under scenario (b) above, full WWTP treatment would occur such that the tankered effluent would be of comparable high quality to the permeate otherwise approved to be irrigated or infiltrated on-site. Scenario (b) is unlikely to be required until well into the development of Stage 1's c.475 dwelling units.
7. In the event of a significant outage of the WWTP tankering would likely occur under emergency, but that is not subject to the approval given.
8. The wastewater and water treatment plant infrastructure will be owned and operated by a special purpose Utility Company.
9. No authorisation has been given for wastewater options for Stage 2 – other than recognising that a second wastewater treatment plant module would be required in the absence of public connection and would be sited alongside the approved WWTP. That is a hold point on the registration of an approved survey plan and the issue of s.224(c) subdivision certificates for Stage 2. Those processes will be subject to acceptance by Council of the adequacy of any wastewater disposal solution proposed and consenting of that option.
10. Finally, the Expert Panel's notes that a number of possible authorised tanker reception facilities were advised by Vineway; the Whangarei facility being but one of those. No contractual arrangements for that service are yet in place.

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A EXECUTIVE SUMMARY

1. This application is made by Vineway Limited (**the Applicant**) under the Fast-Track Approvals Act 2024 (**the FTAA**) for resource consent and archaeological approvals (**the Application**) to undertake the development of 109.18 hectares on Future Urban Zone (**FUZ**) land located at 88, 130, and 132 Upper Ōrewa Road and 53A, 53B and 55 Russell Road, Ōrewa (**the Site**) for the purposes of a comprehensively planned development, including up to 1,213 residential dwellings, one-residential super lot, a commercial area, two neighbourhood parks, and attendant infrastructure, including the construction of an interchange at Ōrewa (**the Project**).
2. The Project is intended to be known as Delmore and is a listed project in Schedule 2 of the FTAA, where its project description is:

Subdivide land and develop approximately 1,250 residential dwellings and associated features such as parks, including delivery of the State Highway 1 Grand Drive interchange and Wainui area connection.
3. A comprehensive resource consent, change of consent notice conditions and an archaeological authority is sought under s.42(4) of the FTAA.
4. The Environmental Protection Authority (**the EPA**) decided that the Application was complete and within scope on 2 February 2026 and made a recommendation on 12 February 2026 that there were no competing applications for the purposes of s.47(3) and no existing resource consents for the same activity for the purposes of s.47(8). The EPA then provided the Application to the Panel Convenor and at the same time requested a report from the Ministry for the Environment (**MfE**) under s.18 of the FTAA. A report was received on 16 February 2026 and determined that the Ngāti Manuhiri, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, and Te Ākitai Waiohū settlements provide for coastal statutory acknowledgements, including over the Ōrewa River estuary, and whilst the Project area does not include this statutory area, the Application includes proposed activities (such as stormwater and earthworks) which could directly affect the nearby estuary via the waterways on the Site.
5. On 12 March 2026 an expert panel (**the Panel**) comprising David Hill (Chair), Dr Claire Kirman and Michael Parsonson was appointed to determine the Application.
6. The Project has been the subject of an earlier application under the FTAA which was subsequently withdrawn by the Applicant before a final decision was issued. This, therefore, is the second application that has been made by the Applicant for the Project under the FTAA.
7. The earlier draft decision made by the first Panel (**the First Panel**) considered that the first application (**the First Application**) should be declined (**the First Draft Decision**). This was because the First Panel had concerns about the provision of water supply and wastewater management, transport infrastructure impacts, and ecological effects of the First Application. In summary, the First Draft Decision considered that

the First Application “*was not at the requisite standard required for such a significant project which is in a future urban zone with no infrastructure connectivity*”¹.

8. As one can imagine, the Application material that the Panel has reviewed has been extensive. The Application itself comprised an Assessment of Effects (**AEE**) along with 49 Appendices (plus sub-appendices). The AEE commenced by noting that a previous application for the Project had been lodged in February 2025 but, following the issuance of a draft decision by a differently constituted Panel to decline the Project, the Applicant withdrew the application on 11 September 2025. This was to allow it sufficient time to comprehensively address the First Panel’s concerns. The AEE states that the Application that we now have before us represents a materially refined proposal which has systematically addressed the concerns of the First Panel.
9. Because the Application has been prepared in a way that is inextricably linked to the previous application, it has necessitated the Panel to review not only the Application material before it, but some of the reports provided by the Applicant and other participants in the First Application process where that information has been referred to in the Application. This has included reviewing the First Draft Decision. This has been an onerous task for the Panel given the short time frames of the FTAA.
10. In addition to reviewing this material, the Panel has made a number of requests for information from parties. The Panel has carefully reviewed all information it has received in evaluating the Application and making this Decision. This included 22 responses from invited commenters that were received by the Panel on 4 May 2026 and a response to those comments from the Applicant on 5 June 2026 (which included some 116 documents including drawings). The comments included those in support of the Application and those against. An assessment of those comments is contained later on in this decision document (**the Decision**).
11. The Panel has concluded that the First Application deficits have been sufficiently cured (including through the Requests for Further Information (**RFIs**)) such that resource consent can be granted.
12. Likewise, the application to change resource consent notice conditions can be approved.
13. The Panel has also concluded that the archaeological authority can be approved. Agreement between the Applicant and the responsible agency Heritage New Zealand Pouhere Taonga (**HNZPT**) was reached on this proposed authority and draft conditions are provided in **Appendix 1**.
14. The Panel has considered the annotated set of conditions provided by the Applicant and Council on 27 June 2026. This is further discussed in Part J of the Decision. It has also considered the comments made on the draft conditions and the Applicant’s

¹ First Draft Decision at [17].

response to those comments received on 4 August 2026 (as identified in **Appendix 5**).

15. The Panel's decision, having considered all relevant matters, is that the approvals sought for the Project are granted subject to the conditions imposed in **Appendix 1**.
16. The Decision is made in accordance with s.87 of the FTAA and covers all the approvals sought under the substantive Application. That section provides that a decision document must:
 - a. State the Panel's decision;
 - b. State the Panel's reasons for the decision;
 - c. Include a statement of the principal issues that were in contention; and
 - d. Include the main findings of the Panel on those issues.

B OVERVIEW OF THE APPLICATION AND PROCEDURE

The application

17. The Application is for resource consent and archaeological approvals necessary to undertake the development of approximately 61 ha of the overall 109.18 ha site of FUZ land in Ōrewa, within the Auckland Region, for the purposes of a comprehensively planned residential development.
18. As detailed in the AEE, the Application as lodged² comprises a 2-stage subdivision and land development, including earthworks, construction, operation and maintenance, of:
 - a. 1,201 residential lots (1,213 if the Stage 1 park is not publicly acquired) – being 111 zero lots and 1,090 standalone;³
 - b. 1,201 dwellings (456 single and 745 double units, one to five bedrooms, drawn from 77 typologies) over 2-stages (Stage 1 = 475 dwelling units; Stage 2 = 726 dwelling units);
 - c. a commercial superlot in Stage 2;
 - d. an unserviced residential superlot in Stage 2;
 - e. two neighbourhood parks of 3,050m² and 3,200m² (Stage 1 and 2 respectively) and a network of protected open space and ecological areas;

² Noting that some changes were made following receipt of invited comments – refer the Applicant's responses received 5 June 2026 – and those are discussed later in this Decision.

³ The number of lots and dwellings varies depending on assumptions made about the ultimate "fate" of the Stage 1 park (it could provide 12 residential lots if not acquired), the Stage 2 unserviced residential superlot, and the conversion of the wastewater and water supply treatment plant lot into 10 residential lots post-connection to the public network in future. That underlies the reason for making application for "up to 1250 lots".

20. Specifically, the following approvals are sought under s.42(4) of the FTAA:
- a. A resource consent (as an approval under s.42(4)(a) that would otherwise be applied for under the Resource Management Act 1991 (**RMA**));
 - b. A change of consent notice conditions (as an approval under s.42(4)(a) that would otherwise be applied for under the RMA); and
 - c. An archaeological authority (as an approval under s.42(4)(i) that would otherwise be applied for under s.44(a) or (b) of the Heritage New Zealand Pouhere Taonga Act 2014 (**HNZPTA**)).
21. A comprehensive list of the reasons consent is required under the Auckland Unitary Plan (**AUP**) and various national instruments, and the activity statuses that thereby apply, is provided in chapter 8.0 *Approvals Required* of the Application and supporting AEE. There was no material challenge to that analysis, and the Panel accepts that list as sufficient for the present purpose.
22. The Panel has reviewed all the documentation and further information provided by the Applicant and participants and agrees with the Applicant that, in terms of the AUP, overall the Application is a non-complying activity.
23. Schedule 5 of the FTAA provides at cl.17(b) that when considering a consent application, s.104D of the RMA is excluded. The consequence of this exclusion is that one of the 'gateway tests' for non-complying activities does not have to be passed in order for approval to be given under the FTAA.

The First Decision

24. As noted previously, the Application was the subject of an earlier Panel process for which a draft decision was issued. Having considered the First Application and all the comments and other information received, the First Panel concluded that the adverse impacts of the Project were so significant that they were out of proportion to the Project's regional benefits. The key adverse impacts of concern to the First Panel broadly related to the inadequacy of the potential ecological impacts of the Project, the potential transport adverse impacts and a lack of appropriate water services infrastructure for the Project.
25. At the Project Overview Conference held on 23 March 2026 (**the Project Overview Conference**), the Applicant provided the Panel with a summary of the key issues raised by the First Panel and Auckland Council (**Council**), and the changes that had been made to, or the further information included in, the Application to respond to these matters.
26. In summary the key issues raised, and the amendments made to the Application as lodged, were as follows:

Key issues raised in respect of the First Application	Amendments made to the Application as lodged or further information provided
<i>Potable water supply</i>	
During the First Application Watercare had advised that a connection to the public water supply network was not available for the Project.	The Application provides for on-site potable water supply by way of a groundwater take consent granted in February 2026. By way of draft conditions, the Application also provides for connections to the public water supply network when such connections become available.
<i>Wastewater treatment</i>	
Insufficient certainty of wastewater treatment servicing	The Application provides for on-site waste-water treatment and by way of draft conditions, the Application also provides for connections to the public water supply network when such connections become available. The Application also included a confirmed disposal location.
<i>Ecology</i>	
Site-specific fauna and flora surveys and reporting/assessments were not provided	Site-specific fauna and flora surveys have been undertaken.
Ecological impacts associated with the proposed realignment of NoR6 where it exited the Site to the south.	The NoR6 alignment within the Application matches the concept plan within the designation.
Public walkways were proposed through existing areas of native vegetation.	Public walkways in the Application are now proposed in areas where they can be constructed alongside new vegetation being planted or where overpass infrastructure can be constructed.
Concerns about the residential societies delivering on native vegetation planting responsibilities.	The Application provides for the consent holder to have responsibility for overseeing the establishment phase for all enhancement and new planting. The Residential Societies take over responsibility for maintenance work.
<i>Stormwater/Flooding</i>	
No geomorphic risk assessment undertaken	A geomorphic risk assessment was included in the Application, and some geotechnical engineering solutions have been proposed.
Inadequate detail on raingarden plans	Detailed plans included in the Application.
<i>Parks</i>	
A park in each development stage	Two parks are now included.
<i>Transport</i>	
Design does not include a collector road	A collector road is included in each stage of the Project.
NoR6 horizontal alignment and gradient do not match the NoR6 concept plan at the southern boundary	The NoR6 horizontal alignment and vertical gradient now match the NoR6 concept plan at the southern boundary.
Inadequate upgrades to external road network to manage the adverse impacts of the Project	Additional upgrades have been in the Application following consultation with Auckland Transport.

Uncertainty regarding the timing of the construction of the road between the Project Site and Grand Drive	This portion of road has now been vested as road reserve and a condition has been proposed that this road be constructed and operational prior to section 224 certification.
Economics	
A cost benefit analysis was not provided	A cost benefit analysis has now been provided.
Conditions	
Deemed certification for management plans not appropriate.	Deemed certification has been removed from the management plan conditions.
No requirement for earthworks Adaptive Management Plan	Adaptive management plan condition now included.
Conditions do not properly provide for the management of NZTA managed culverts	Proposed condition included for a management plan to address NZTA's concerns around potential culvert blockage.
No requirement for operation and maintenance plan for counterfort drains	Condition now included in consultation with Auckland Council.

Site and surrounding environment

27. The Applicant provided a detailed description of the Site at section 6 of the AEE. In summary, the Site comprises six contiguous land parcels located at 88, 130 and 132 Upper Ōrewa Road, and 53A, 53B and 55 Russell Road, Ōrewa. The Site is irregularly shaped and has a total area of approximately 109.18 hectares.
28. The Site is currently used for pastoral farming and agricultural production, consisting predominantly of open paddocks, together with a number of dwellings and ancillary farm buildings. Indigenous vegetation is scattered throughout the Site, primarily within gullies, alongside specimen trees of varying quality, boundary planting, shelterbelts, and several small pine plantations. A network of streams traverses the Site, with associated natural inland wetlands occurring in some locations.
29. The Site's topography is characterised by a series of ridgelines and gullies, with steeper slopes generally occurring adjacent to watercourses, particularly within the northern part of the Site. The intervening land is predominantly rolling in nature, with an overall fall towards the south-east and the Ōrewa River. Surrounding properties to the west and south exhibit similar topographical characteristics.
30. Managed pasture covers most of the Site. Other vegetation includes pine plantations, exotic vegetation, and areas of gorse scrub. Significant areas of indigenous vegetation are also present, largely associated with land subject to consent notice requirements and areas identified within the Significant Ecological Area – Terrestrial (SEA-T) Overlay.
31. The Site contains an extensive hydrological network comprising 39 permanent and intermittent streams, together with numerous existing farm crossings and culverts. A total of 36 natural inland wetlands has been identified across the Site, including both palustrine and riverine wetland systems, comprising marsh and seepage wetland

types. In addition, five farm ponds constructed for agricultural purposes are located within the Site.

32. Access is currently provided via several private crossings from Upper Ōrewa Road and Russell Road. A legal (paper road) road is located between 88 Upper Ōrewa Road and 53B Russell Road and bisects the Site.
33. The activity is also in the vicinity of an Auckland Transport Notice of Requirement (NoR6 – subsequently confirmed as Designation 14108) which is the new proposed connection between Milldale and Grand Drive, Ōrewa. There are also flood prone areas, flood plains and overland flow paths noted on the Site.
34. In addition, there are two archaeological sites (R10/776 and R10/1573) – shell middens - on the Site.

Procedure followed

35. The procedure that the Panel undertook is detailed in this section of the Decision. Further details of the procedure followed are recorded in the six minutes and three Requests for Further Information (**RFI**) that were issued by the Panel.
36. The Panel was appointed on 18 March 2026 and the Project Overview Conference was held on 24 March 2026.
37. A site visit was undertaken by the Panel on 31 March 2026 accompanied by Ms Georgia Tremeer (EPA) and Messrs Andrew Fawcet and Djordje Petkovic (Vineway Limited).
38. The s.18 FTAA Treaty Settlements and other obligations report prepared by MfE was submitted to the Panel Convener on 16 February 2026. That report informed the Panel's invitation to comment.
39. The s.53 FTAA Invitation to comment was issued by Panel Minute 2 on 1 April 2026 with comments due 4 May 2026. Comments were received from 22 Ministers / persons / organisations as listed in **Appendix 3**.
40. The Applicant requested a 10 working day suspension under s.64 FTAA in order to have sufficient time to properly respond to the comments received by the Panel under s.53 FTAA. The Panel accepted that request and issued Minute 3 on 8 May 2026 suspending the process between 11.59 pm 8 May until 11.59 pm 22 May 2026. A second 9-day suspension request was received on 21 May 2026 in order for the Applicant to address Council's received comments (in particular). That request was granted by the Panel in Minute 4 with the new agreed date for resumption being 5 June 2026.
41. The Applicant filed its response to comments on 5 June 2026 - which included some 116 documents including amended plans, drawings and proposed conditions. Responses to the Panel's RFI were provided on 26 June 2026 and 8 July 2026.
42. No special or technical advisors were engaged by the Panel

43. A hearing was not considered necessary under s.56 FTAA.
44. The Panel communicated regularly throughout by emails, teleconferencing, on-line Teams link, and in-person meetings.
45. The Panel's draft Decision was circulated on 14 July 2026 in accordance with s.70 FTAA, providing 10 working days for comments, a further 5 working days for the Applicant to respond to those comments before the final decision was due for release on 10 August 2026.

C LEGAL CONTEXT

Legal context for listed projects under the FTAA

46. As noted above, the Project is a listed project under Schedule 2 of the FTAA. Specifically, Vineway Limited is listed as the authorised person for a project referred to as 'Delmore', which is described in the Schedule as involving the subdivision and development of land for approximately 1,250 residential dwellings and associated features such as parks, including delivery of the State Highway 1 Grand Drive interchange and Wainui area connection at 88, 130, and 132 Upper Ōrewa Road, and 53A, 53B, and 55 Russell Road, Ōrewa.
47. On 2 February 2026 the EPA formally determined the Application before us to be complete and within scope pursuant to s.46 of the FTAA.
48. At the Project Overview Conference the Panel raised two issues regarding the scope of the Application. The first was whether or not there was scope to include a small commercial superlot proposed for Stage 2 of the Project. The Applicant's counsel responded by way of comments received on 5 June 2026, noting that for listed projects s.4 of the FTAA states that the description of the Project includes any activity that is involved in, or that supports and is subsidiary to, the Project. Further, counsel for the Applicant noted that the inclusion of the commercial superlot was as a result of feedback received from the Council.
49. The second issue was whether or not the total number of houses for which approval is sought aligned with the description in Schedule 2. As noted by Counsel for the Applicant, at the lower end the Application seeks approval for 1,217 residential dwellings and at the upper end 1,248 residential dwellings – both of which fall under the Project description of 1,250 residential dwellings in Schedule 2.
50. No parties raised issues regarding the scope of the Application and the Panel is satisfied that the Application is within scope.
51. In accordance with s.42 FTAA an authorised person for a listed project may lodge one substantive application with the EPA. That substantive application is required to follow the process set out in s.43 and the information specificity requirements of s.44.

52. The Applicant re-lodged the substantive Application on 12 January 2026. As noted above, the EPA decided that the Application was complete and within scope on 2 February 2026. The EPA made a recommendation noting that there are no competing applications or existing resource consents for the same activity on 12 February 2026. The EPA then provided the Application to the Panel Convenor and at the same time requested a report from the Ministry for the Environment under s.18 of the FTAA – which was received on 14 February 2026.

Decisions on approvals

53. Section 81 of the FTAA sets out the framework the Panel must adopt when making decisions on approvals. The parts of s.81 relevant to the Application are set out here:

81 Decisions on approvals sought in substantive application

- (1) *A panel must, for each approval sought in a substantive application, decide whether to—*
- (a) *grant the approval and set any conditions to be imposed on the approval; or*
 - (b) *decline the approval.*
- (2) *For the purpose of making the decision, the panel*
- ...
- (aab) *must consider a relevant Government policy statement:*
 - (b) *must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90:*
 - (c) *must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):*
 - (d) *must comply with section 82, if applicable:*
 - (e) *must comply with section 83 in setting conditions:*
 - (f) *may impose conditions under section 84:*
 - (g) *may decline the approval only in accordance with section 85.*
- (3) *For the purposes of subsection (2)(b), the clauses are as follows:*
- (a) *for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5:*
 - ...
 - (c) *for any other approval described in section 42(4)(b) (change or cancellation of resource consent condition), clause 23 of Schedule 5*
 - ...
 - (j) *for an approval described in section 42(4)(i) (archaeological authority), clauses 4 and 5 of Schedule 8:*
- (4) *When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits.*
- ...
- (6) *Despite subsection (2)(a), the panel—*
- (a) *is not required to consider any advice, report, comment, or other information it receives under section 51, 53, 55, 67, 69, 70, or 72 after the applicable time frame; but*
 - (b) *may, in its discretion, consider the information as long as the panel has not made its decision under this section on the approval.*
- (7) *To avoid doubt, nothing in this section or section 82 or 85 limits section 7.*

54. Of note, s.81(4) states that a panel must consider the extent of a project's regional or national benefits when taking the purpose of the FTAA into account when applying the relevant clauses to the Application in ss.(3). Reference to the regional and national benefits of a project refers back to the purpose of the FTAA which, as stated in s.3, *is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits*. As noted in s.81(2)(b), the clauses referred to in ss.(3) (for this Application in Schedules 5 and 8) specify the relevant weight to be given to the purpose of the FTAA when making a decision and are discussed later in this section.

Ability to decline consent

55. The consideration of the regional and national benefits of a project also becomes relevant when determining when a panel may decline approval under s.85. In that regard, s.85(1) and (2) set out the matters that apply to a *mandatory* decline decision under the Act - although this is not an application where these sections apply.
56. Section 85(3)-(5), however, sets out the circumstances in which approval *may* be declined. The relevant subsections provide:

85 When panel must or may decline approvals

...

(3) A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—

- (a) there are 1 or more adverse impacts in relation to the approval sought; and
- (b) those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—
 - (i) any conditions that the panel may set in relation to those adverse impacts; and
 - (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.

(4) To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).

(5) In subsections (3) and (4), **adverse impact** means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.

57. Under this section a panel may decline an approval if, in complying with s.81(2), the Panel forms the view that there are 1 or more adverse impacts in relation to the approval sought, and those adverse impacts are sufficiently significant to be out of proportion to the Project's regional or national benefits that the Panel has determined under s.81(4). Consideration of the regional or national benefits of a

project by a Panel for this proportionality test does not require an inquiry as to their significance *per se*, rather it is the significance of the adverse impacts such that they are out of proportion to the Project's regional or national benefits to which the Panel must turn its mind.

58. When determining if those adverse impacts are sufficiently significant to be out of proportion to the regional or national benefits of the Project the Panel is required to take into account:

- (i) any conditions that the Panel may set in relation to those adverse impacts; and
- (ii) any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.

Section 85(4) goes on to state that a Panel may not form the view that an adverse impact meets the threshold in ss.(3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with s.81(2).

59. For the purposes of ss.(3) and (4), 'adverse impact' is defined as meaning any matter considered by the Panel in complying with s.81(2) that weighs against granting the approval. The Council, as noted in the First Draft Decision, submitted that the term 'adverse impact' is:

... therefore broad, and could encompass (for example) adverse effects on the environment, matters arising from planning instruments, and section 104(1)(c) matters.⁵

The First Panel agreed that the term "adverse impact" correlates to an RMA consideration of adverse effect in the Application. On this issue the later decision of the Maitahi Village Expert Panel noted, however, that:

The term 'adverse impacts' is defined in very broad terms as essentially any matter properly before the Panel which weighs against the granting of approval. This is by way of contrast with the term 'adverse effects' used in the RMA context.

...

The Panel assumes that the decision by Parliament to adopt the word 'impacts' rather than 'effects' was presumably deliberate, although it is by no means clear whether the two expressions are significantly different in the context of this Application. The Panel will therefore make a forensic assessment of any applicable adverse impacts of the Application on the available facts.⁶

60. The Panel has for this Application adopted the approach of the Maitahi Village Expert Panel, although like the First Panel it has not identified any adverse impacts of the Application that would not also be considered adverse effects under the RMA.

⁵ First Panel Draft Decision, 29 August 2025, at [99].

⁶ Maitahi Village Decision, 18 September 2025, at [63] and [91].

Approvals under the Resource Management Act 1991 and the Heritage New Zealand Pouhere Taonga Act 2014

- 61. Schedules to the FTAA set out the decision-making criteria that apply in relation to the different categories of approvals that can be granted under the FTAA.
- 62. With respect to approvals relating to the RMA, Schedule 5 sets out the relationship of the FTAA with the RMA, and how the standard RMA consent application process is modified for the purposes of the FTAA.
- 63. In that regard cl.17 of Schedule 5 provides:

17 Criteria and other matters for assessment of consent application

(1) For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),—

(a) the purpose of this Act; and

(b) the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and

(c) the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.

(2) For the purpose of applying any provisions in subclause (1),—

(a) a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and

(b) if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and

(c) to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval is a relevant matter.

(3) Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.

(4) For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.

...

(6) For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.

(7) *Sections 123 and 123A of the Resource Management Act 1991 apply to a decision of the panel on the consent.*

64. Schedule 17 is therefore relevant to the Panel's decision in respect of the approvals sought by the Applicant for a resource consent and a change of consent notice conditions under s.42(4)(a) that would otherwise be applied for under the RMA.

65. For completeness it is noted that although the Application has an overall activity status of 'non-complying' under the RMA, by virtue of cl.17(1)(b) of Schedule 5, the Panel is precluded from considering section 104D of the RMA which sets particular restrictions for non-complying activities.

66. With respect to approvals relating to the HNZPTA, Schedule 8 sets out the relationship of the FTAA with the HNZPTA, and how the standard archaeological authority process is modified for the purposes of the FTAA.

67. In that regard clause 4 provides:

4 Criteria for assessment of application for archaeological authority

(1) *For the purposes of section 81, when considering an application for an archaeological authority, including conditions in accordance with clause 5, the panel must take into account, giving the greatest weight to paragraph (a),—*

(a) *the purpose of this Act; and*

(b) *the matters set out in section 59(1)(a) of the HNZPT Act; and*

(c) *the matters set out in section 47(1)(a)(ii) and (5) of the HNZPT Act; and*

(d) *a relevant statement of general policy confirmed or adopted under the HNZPT Act.*

(2) *For the purposes of subclause (1), the provisions of the HNZPT Act referred to in that subclause must be read with all necessary modifications, including that a reference to Heritage New Zealand Pouhere Taonga must be read as a reference to the panel.*

68. Schedule 8 is therefore relevant to the Panel's decision in respect of the approval sought by the Applicant for an archaeological authority under either s.44(a) or (b) that would otherwise be applied for under the HNZPTA.

69. The significance of the regional or national benefits of a project is also a matter relevant to the Panel's consideration in the Schedules of the FTAA, which set out the decision-making criteria that apply in relation to the different types of approvals that can be granted. That requirement occurs by virtue of the requirement for a panel to take into account the purpose of the FTAA. For example, the criteria and other matters relevant to the assessment of a consent application under cl.17 of Schedule 5 and cl.4 of Schedule 8 require that the Panel must take into account, and give the greatest weight to, the purposes of the Act – being *"to facilitate the delivery of infrastructure and development projects with significant regional and national benefits"*. Section 81(4) as noted above also states that when taking into account the

purpose of the FTAA in Schedules 5 and 8 the Panel must consider the extent of the Project's regional and national benefits.

Significant Regional or National Benefits

70. The inclusion of a '*significant regional or national benefits*' test is new in the resource management context, although in recent times the test has also been included in national direction and the now repealed Natural and Built Environments Act 2023. However, the FTAA does not define what amounts to a benefit under the Act, nor what the threshold test of '*significant*' entails.
71. Section 22 sets out the criteria for a Minister to accept a referral application. This includes the criterion that a project is an infrastructure or development project that would have significant regional or national benefits (s.22(1)(a)). Subsection (2) goes on to state that for the purposes of ss.(1)(a) the Minister may consider the following matters:
- (a) *whether the project—*
 - (i) *has been identified as a priority project in a central government, local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:*
 - (ii) *will deliver new regionally or nationally significant infrastructure or enable the continued functioning of existing regionally or nationally significant infrastructure:*
 - (iii) *will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of policy 1 of the National Policy Statement on Urban Development 2020):*
 - (iv) *will deliver significant economic benefits:*
 - (v) *will support primary industries, including aquaculture:*
 - (vi) *will support development of natural resources, including minerals and petroleum:*
 - (vii) *will support climate change mitigation, including the reduction or removal of greenhouse gas emissions:*
 - (viii) *will support climate change adaptation, reduce risks arising from natural hazards, or support recovery from events caused by natural hazards:*
 - (ix) *will address significant environmental issues:*
 - (ixa) *will promote competition in the grocery industry:*
 - (x) *is consistent with local or regional planning documents, including spatial strategies:*
 - (b) *any other matters the Minister considers relevant.*
72. In determining what is meant by '*significant regional or national benefits*' this section is not as helpful as it might first appear. Within the construct of the FTAA this section is a gateway test to determine whether or not a project may utilise the fast-track consenting pathway. It is clearly anticipated that a more thorough assessment of a project, including the claimed benefits, will occur at the later assessment stage of the process.
73. Further ss.(2)(b) provides that a Minister may consider any other matter that in the Minister's opinion is relevant, meaning that the s.22 test has a high level of Ministerial discretion in-built.

74. For the above reasons the Panel considers reference to s.22 to be of limited assistance in terms of the Panel's task in s.81 and s.85 of the Act beyond what the Maitahi Village Expert Panel⁷ described as providing a 'flavour' or 'guide' to what might be considered a regional or national benefit – that is, the question of the extent of the significance of a project's regional or national benefits requires a factual determination by a Panel turning on the particular circumstances of the Application.
75. The significance of a project's benefits is clearly contextual and determination of regional benefits is clearly dependent upon the region in which the application is made. Likewise, s.22 makes clear that benefits, in the context of the FTAA, extend beyond the economic, including *inter alia* alignment with government strategies and planning instruments, supporting primary industries and the development of natural resources, supporting climate change mitigation and climate change adaptation, and increasing housing supply and housing needs.
76. Further we agree with the panels for the Waihi North Project and Sunfield Project that *significant* for the purposes of the FTAA can be defined as 'worthy of note'.⁸
77. At this junction it is apposite to address the Applicant's contention in the AEE that inclusion of the Project in Schedule 2 of the FTAA means *prima facie* that the Project has significant regional or national benefits. In that regard, the AEE states that:
- As a listed project, Delmore is described in Schedule 2 as a 'project with significant regional and national benefits'. This indicates that it has already been established that Delmore has regional or national benefits that are significant through the parliamentary decision to list the Delmore project in the FTAA.*⁹
78. Like the First Panel assessing the Project, we do not agree that inclusion in Schedule 2 can mean that the Project has already been determined by the legislature as having significant regional or national benefits for the purposes of the Panel's assessment in s.81(4) and s.85(3), even with the Schedule being headed: 'Listed projects with significant regional or national benefits'. Inclusion within Schedule 2 from a statutory interpretation perspective simply means that the Project has been accepted by the Minister to the fast-track approvals process either as a listed project or a referred project. In the absence of specific statutory direction deeming inclusion within Schedule 2 as satisfaction of the requirement for the Panel to consider the extent of the Project's regional and national benefits, acceptance of a project to the fast track process cannot predetermine the later statutory test that the Panel must determine under s.81(4) or s.85(3).
79. This approach aligns with that of the Maitahi Village Expert Panel where it was stated:

There is an explicit requirement on decision makers that 'when taking the purpose of this Act into

⁷ Maitahi Village Decision, 18 September 2025, at [515].

⁸ Waihi North Decision, 18 December 2025, at [842]; Sunfield Decision, 10 March 2026, at [463].

⁹ AEE, 23 December 2025, at page 122.

account under a clause referred to in subsection (3), the panel must consider the extent of the project's regional or national benefits' [emphasis added]. This evaluative exercise is thus an essential step in the overall decision-making process. Hence when the Act refers in s 85(3)(b) to the project's regional or national benefits, it is the extent of such regional or national benefits that must be assessed.¹⁰

80. In any case, the Project before us is of a slightly reduced scale and format to the listed project described in Schedule 2, and so a fresh consideration of whether or not the Project will result in significant regional or national benefits, and in doing so meet the purpose of the Act, is appropriate.

D IWI AUTHORITIES

Section 18 Report for a listed project

81. The Ministry for the Environment provided a report on Treaty settlements and other obligations as required under s.18 and in accordance with section 49 of the FTAA on 16 February 2026 (**Section 18 Report**). In summary the Section 18 Report stated that:

Auckland has a complex Treaty settlement landscape with many overlapping interests. There are groups in the post-settlement phase with others at different stages of the Treaty settlement process, including some groups seeking both individual and collective settlement redress.

...

The relevant Treaty settlements for the project area are the Ngāti Manuhiri Claims Settlement Act 2012, Ngāti Whātua o Kaipara Claims Settlement Act 2013, Te Kawerau ā Maki Claims Settlement Act 2015, Ngāi Tai ki Tāmaki Claims Settlement Act 2018, Ngāti Pāoa Claims Settlement Act 2025, and the deeds of settlement signed with Te Ākitai Waiohū and Te Patukirikiri respectively.

The Ngāti Manuhiri, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, and Te Ākitai Waiohū settlements provide for coastal statutory acknowledgements, including over the Ōrewa River estuary. While the project area does not include this statutory area, the application includes proposed activities (such as stormwater and earthworks) which could directly affect the nearby estuary via the waterways onsite. (paras 4 -6)

...

We have analysed the other relevant Treaty settlements and have not identified any other redress which applies to the project area. However, we note that iwi and hapū are likely to have cultural associations with ancestral lands, water, sites, wāhi tapu, and other taonga beyond what is specifically identified in a Treaty settlement or other arrangements. Local tangata whenua and their representatives would be best placed to advise on such matters in the first instance. (para 48)

82. The s.18 Report recommended that the Panel invite Ngāti Manuhiri, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, and Te Ākitai Waiohū to comment on the Application under section 53 of the FTAA. For completeness, it is noted that the process for seeking an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 (which the Application is seeking) also requires that an applicant consult tāngata

¹⁰ Maitahi Village Decision, 18 September 2025, at [62].

whenua. In that regard, the Deed of Settlement for Te Ākitai Waiohū specifically provides for a Whakaaetanga Tiaki Taonga, which as drafted notes the statutory obligation on developers to consult tāngata whenua with respect to archaeological authorities.

Comments received

83. The Panel invited comments from 13 iwi authorities and 14 Treaty settlement entities under s.53 as listed in Minute 2 dated 1 April 2026.
84. Comments were received from Ngā Maunga Whakahii o Kaipara who included correspondence with the Applicant indicating that, notwithstanding the updated information, it continued to oppose the Project, as previously indicated, including on grounds of fragmented development, infrastructure insufficiency, concerns over wastewater discharges to land, and potential for invasive weeds to propagate in proximity to Nukumea Reserve given the timescale for effective canopy cover following vegetation removal.
85. The Panel also directed the EPA to seek comment from the Minister for Māori Crown Relations. In response the Minister indicated support for the Project subject to the Panel having due regard to any comments received from relevant identified Māori groups and coastal statutory acknowledgements.

Application information

86. The AEE provides an outline of consultation with iwi authorities prior to lodgement of the Application. Extensive consultation with iwi has occurred and is documented in Appendix 7.1 to the Application.
87. Appendix 8 to the Application provides an analysis of the statutory requirements relating to iwi authorities and Māori interests. For completeness it is noted that the Site is not within or adjacent to a statutory area, to ngā rohe moana o ngā hapū o Ngāti Porou, or a protected customary rights are under the Marine and Coastal Area (Takutai Moana) Act 2011.
88. Three Cultural Impact Assessments (CIA) have been prepared (refer Appendix 7.2). This has led to the adoption of specific design and effects management measures to address issues raised and recommendations provided in the CIAs that have been prepared.

Effect of Treaty settlements and other obligations on decision-making

89. Section 7 of the FTAA provides that:

7 *Obligation relating to Treaty settlements and recognised customary rights*

- (1) *All persons performing and exercising functions, powers, and duties under this Act must act in a manner that is consistent with—*
 - (a) *the obligations arising under existing Treaty settlements; and*

- (b) *customary rights recognised under—*
 - (i) *the Marine and Coastal Area (Takutai Moana) Act 2011:*
 - (ii) *the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.*
 - (2) *To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.*
- 90. It is unclear whether or not the Panel is exercising a judicial power or performing a judicial function or duty, and therefore whether or not this section applies to the Panel's exercise of its functions, powers and duties under the FTAA. In any case, as noted above, there are no relevant customary rights applied to the Site and while there are existing Treaty settlements that apply, the s.18 Report concluded that there were no specific provisions that needed to be considered when assessing the Application. The s.18 Report did note that the Ngāti Manuhiri, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki, and Te Ākitai Waiohū settlements provided for coastal statutory acknowledgements, including over the Ōrewa River estuary. The s.18 Report goes on to state that the process of inviting comments under the Act is comparable to the process under a Treaty settlement of providing those who hold a statutory acknowledgement with a summary of the Application.
- 91. Section 82 of the FTAA also provides:

82 *Effect of Treaty settlements and other obligations on decision making*

 - (1) *This section applies if a Treaty settlement, the Marine and Coastal Area (Takutai Moana) Act 2011, or the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 is relevant to an approval.*
 - (2) *If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act.*
 - (3) *The panel must also consider whether granting the approval would comply with section 7.*
 - (4) *In this section, **document**—*
 - (a) *means any document, arrangement, or other matter; and*
 - (b) *includes any statutory planning document amended as a result of the settlement or Act referred to in subsection (1).*
- 92. In accordance with the advice provided in the s.18 Report, the Panel concludes that s.82, which relates to the effect of Treaty settlement and other related obligations on decision-making, does not apply to consideration of the Application.

E SECTION 51 RESPONSE

Heritage New Zealand Pouhere Taonga

- 93. By Minute dated 18 February 2026 the Panel Convener directed the EPA to obtain a report from Heritage New Zealand Pouhere Taonga (**the HNZPT**) and the Māori

Heritage Council (**the MHC**), as the administering agency, under cl.3 of Schedule 8 of the FTAA for the archaeological authority sought. Advice was also sought on four specific matters:

- (a) How the weighting of matters set out in the relevant schedules should be approached, having regard to applicable statutory provisions and relevant senior court decisions (pursuant to section 51(1) of the FTAA).*
- (b) If HNZPT and MHC do not agree with, or wish to amplify, the expert and planning assessments lodged in support of the Application, they must file a report in accordance with the relevant schedule (sections 51(2)(c) or 51(2)(d) of the FTAA).*
- (c) HNZPT and MHC may confirm and append advice, including legal advice, previously given in response to directions under section 51 on another project.*
- (d) HNZPT and MHC are to respond to the draft conditions, including any management plans attached to the Application, recommending tracked changes (if any).*

- 94. That advice was to be received no later than 10 working days following the Panel issuing its s.53 invitation to comment.
- 95. HNZPT's response from Nicola Jackson, Acting Chief Executive, dated 16 April 2026 addressing those matters was received by the Panel on 21 April 2026 and recommended that an archaeological authority be granted with the conditions it attached.
- 96. In terms of the specific matters for which advice was sought, it noted in summary:
 - (a) Clause 4 of Schedule 8 provides that the greatest weight is to be placed on the purpose of the FTAA, noting that s.59(1)(a) of the HNZPTA (which is one of the matters a panel must take into account under cl.4) itself requires an overall assessment of those matters listed in s.59 rather than a strict hierarchy.
 - (b) HNZPT agrees with the Applicant's archaeological assessment (Appendix 23) prepared by Cameron, Low and Roth.
 - (c) HNZPT confirmed and included its previous legal advice on those matters.
 - (d) HNZPT considers the Archaeological Management Plan provided is appropriate and gives its approval.
- 97. Having considered the necessary general policy and cl.4 Schedule 8 FTAA criteria, HNZPT was satisfied that with the amended and Applicant-agreed conditions recommended, the Application for an archaeological authority under s.44 of the HNZPTA would be consistent with the matters set out in s.59(1)(a) of the HNZPTA and should be granted.
- 98. Furthermore, that under s.45 of HNZPTA, Ellen Cameron is appropriately qualified and experienced to be the Approved Person for the purpose of undertaking the authorised activity.

F SUMMARY OF SECTION 53 COMMENTS RECEIVED

99. The following is a very brief summary of comments received in response to the Panel's s.53 FTAA invitation of 1 April 2026 (note - comments received from Ngā Maunga Whakahii o Kaipara are summarised in section D above). We deal with the specific matters in contention in the next section of this Decision.
100. The Minister for Regional Development declined to comment.
101. Barnaby Wallace, adjacent landowner, commented on the extent of development in the general area and the overwhelmed status of many local services, citing transport, schools, doctors, hospital, fire, police, and ambulance, noting that it was time to address the shortfall. On a personal note, he observed that he had insufficient funds to share the cost of fencing his boundary (and on-going costs) with the development park and anticipated this being fully funded by the Applicant. Mr Wallace requested that the Application be put on hold pending the addressing of some of the local service issues cited above.
102. The Minister for Arts, Culture and Heritage noted that the referenced protocol for newly-found taonga tūturu conservation treatments was not up-to-date as the Ministry no longer relied upon the University or Auckland, instead maintaining a Conservation Panel register of Suppliers. That register would need to be consulted as necessary.
103. Jonathon Mason and Janet Mathewson own an adjacent 23.38ha property at 180 Upper Ōrewa Road. They had submitted in opposition to the first application and maintain that opposition to the present Application. Their concerns include proximity of housing to their rural production zone boundary; potential adverse effect to the SNA and its fauna (including aquatic fauna) on/through their property; ultimate responsibility for enforcing and ensuring that conditions of any consent are complied with; responsibility for any resulting slippage of their land from the high retaining walls and cuts on the common boundary; lack of social infrastructure; traffic and road maintenance on Upper Ōrewa Road; inadequate and incorrectly recorded consultation; potential effect of drawdown on their bore and water supply; adverse odour effects from sewage truck collection; and fire risk to their property. The relief sought if the Panel was minded to grant includes the establishment of a predator and people-proof boundary fence; restrictive pet covenants; and a planted 20m-wide boundary margin.
104. The Minister for Infrastructure provided a letter of support, noting that this support was a reflection of the Government's economic growth and infrastructure priorities.
105. Heritage New Zealand Pouhere Taonga confirmed its previous s.51 report recommending that an archaeological authority be granted.
106. The Minister for Māori Crown Relations supported the Application subject to the Panel having regard to invited comments from the previously identified Māori

groups. The Panel was also encouraged to have regard to the relevant coastal statutory acknowledgements held by Ngāti Manuhiri, Te Kawerau ā Maki, Ngāi Tai ki Tāmaki and Te Ākitai Waiohū.

107. The Department of Conservation (**DOC**) confined its comments to terrestrial ecological matters having a direct bearing on the consents sought (e.g. not freshwater fish protection which was subject to a separate application outside the present one). The Department was satisfied that the effects of the proposed activity on those matters could be appropriately managed by conditions – its Appendix B contained tracked changed conditions for the Panel’s consideration, particularly in respect of climate change adaptation (resolved in substance) and podocarp recruitment and natural succession assumptions (not resolved). DOC considered the target of 80% canopy closure and a minimum 90% plant survival rate laudable but noted the slower growth rate of podocarp species which might result in other species dominating the canopy – which is not what is intended. Specific monitoring and potential supplementary planting was therefore recommended.
108. The Associate Minister of Transport supported the Application – noting that operational impacts on local road networks had not been considered.
109. Watercare Services Limited (**WSL**) noted that it does not provide water or wastewater connections to FUZ land and does not support out-of-sequence development that puts pressure on it to reprioritise or reallocate funding away from live zones areas and Future Development Strategy (**FDS**) and Auckland Growth Scenario (**AGS**) sequenced growth.
110. With respect to wastewater, WSL does not support tankering of wastewater to a WSL facility such as the Rosedale or Pukekohe WWTPs and notes that it will not accept Delmore tankered effluent, nor will it enter into any arrangement with the Applicant for tankering of waste to any of its facilities. Furthermore, it does not consider the proposed private wastewater treatment plant (**WWTP**) and disposal area with eventual connection to WSL’s network (Delmore Option 1) a reliable or supported outcome due to the proposed design of the local network. WSL similarly does not support the Delmore Option 2 proposed LPS system pumping to a discharge manhole at the top of Grand Drive ultimately discharging to the Army Bay WWTP – both because an LPS-based network is unacceptable on operational and septicity risk grounds, but also due to limitations arising from the growth-programmed upgrades to the existing transmission wastewater network already consented.
111. With respect to water supply, WSL considers the same operational and water safety risks apply to an interim private supply subsequently connecting to the public network (Delmore Option 1) and, at the least, would require the water treatment plant (**WTP**), headworks and bores to be decommissioned prior to any future connection. WSL advised that the existing bulk water supply network has insufficient capacity for Delmore Option 2.

112. WSL concluded that Delmore must consider its on-site water and wastewater treatment and disposal options as being required on an on-going, not interim, basis. However, it included condition amendments in the event that the Panel is minded to grant the Application.
113. Rodney Harman, owner of 55 Russell Road, confirmed support for the Application.
114. Council provided a detailed Planning Memorandum (**the PM**) supported by 29 technical annexures and comments from the Rodney Local Board. The technical annexures addressed (or included comments relating to) funding and finance, economics, strategic planning, policy, earthworks, geotechnical, groundwater diversion and dewatering, temporary surface water diversion, noise and vibration, contamination, archaeological heritage, Māori heritage, wastewater, hazardous substances, air quality, groundwater use, water treatment, Watercare, stormwater and geomorphology, Healthy Waters, Auckland Transport, traffic engineering, waste, terrestrial ecology, freshwater ecology, arboriculture, landscape, urban design and parks.
115. The PM noted that the comments only related to material received from the Applicant up to and including 20 April 2026 – and that additional material received after that date had not been addressed due to time commitments. It also advised that engagement was on-going with the Applicant on outstanding matters.
116. The PM concluded that material information gaps remain such that the Panel would be unable to conclude positively that the requirements of the FTAA are met. Council sought further time to evaluate the material anticipated in the Applicant's s.55 reply (due 11 May 2026) with a view to expert conferencing as required.
117. Alan, Melanie and Dion Mayes, owners of 53B Russell Road, confirmed their support for the Application.
118. David Rong, owner of 6 Russell Road, stated he would support the Application provided it actively supports the Upper Ōrewa Concept Structure Plan in its entirety – and requested written confirmation and conditions on a number of matters.
119. Rod Clarke and Jenny Evans, owners of two properties within the Delmore Project, supported the Application.
120. Westlake Trustee Limited (**Westlake**), owner of 35 Russell Road, a 7.23ha rural landholding, while not opposed to urbanising the Site, raised substantive concerns regarding the structural, legal and practical consequences of the Project for the existing lawful uses and rights of adjacent landowners. Those, along with a comprehensive list of requested or amended conditions, are identified in two schedules. Westlake characterised its comments in terms of two key objectives:
 - (a) *Ensuring that the eight-year construction and operational period and the resulting residential development does not irreversibly harm the existing occupants and lawful uses of 35 Russell Road.*

(b) *Ensuring that approval of Delmore does not permanently strand the adjacent FUZ landholdings outside the planning and infrastructure framework that the Concept Structure Plan already anticipates will apply in the future.*

121. AVJ Hobsonville Pty Limited is the owner of 47 Ara Hills Drive and consented developer of the adjacent 575 dwelling Ara Hills development – and currently pursuing its Private Plan Change 119 Ara Hills (Halls Farm – Ōrewa 4 Precinct) process. It does not oppose the Project but noted a number of interface and project delivery matters that need to be addressed. AVJ noted the most significant of those being the connection (**the Grand Drive Extension**) across its land to Grand Drive (for which there was, at the time of writing, no agreement in place). Evidence statements from Mitchell Roberts (civil engineer) and Ila Daniels (planner – resubmitted from Delmore’s first application) were included.
122. New Zealand Transport Agency (**NZTA**) noted the further engagement since the First Application was withdrawn and supports the conditions proposed to manage the risk of culvert blockage, scour and/or erosion on the state highway, and sought further identified condition amendments. NZTA’s position is neutral with respect to the Application.
123. Tim Hussey, owner of 955 Weranui Road, supports the Application.
124. The Minister for Building and Construction supports the Application on the basis that it demonstrates clear potential to contribute positively to housing supply affordability, sector productivity, and employment outcomes in Auckland.
125. The unnamed long-term tenant of 35 Russell Road expressed concerns relating to the adequacy of the adjacent Russell/Upper Ōrewa Road intersection sightlines; proximity as a sensitive receiver in respect of construction noise and dust, and wastewater odour; and potential for emergency vehicle access obstruction. Appropriate conditions on those matters were requested.
126. We note that the Applicant provided a detailed response to the particulars raised by the above commenters (other than Council which was addressed separately) in its s.55 FTAA Appendix 9 – *Response to all Other Comments*, dated 5 June 2026.

G PRINCIPAL ISSUES IN CONTENTION

127. Section 87 of the FTAA requires that the Panel’s decision document must include a statement of the principal issues that were in contention, including the Panel’s main finding on those issues.
128. For the record the Panel notes that, subject to acceptance of the Council’s proposed amended conditions, the following topics (as recorded in the s.53 received comments) were essentially agreed and, in the interest of brevity and having

reviewed those matters, the Panel concurs and sees no great utility in rehearsing the detail¹¹. Those “effect” matters generally relate to:

- Earthworks, sediment and erosion control;
- Geotechnical matters – apart from geomorphology;
- Groundwater diversion and dewatering;
- Temporary surface water diversion;
- Construction and WWTP / WTP operational noise and vibration;
- Contaminants in soil;
- Archaeology / heritage;
- Māori heritage;
- Wastewater (but note further below);
- Hazardous substances;
- Air quality;
- Groundwater use / water supply;
- Stormwater – apart from culvert design and wetland / stream geomorphology;
- Stormwater management – except regarding proposed vested assets;
- Traffic engineering – subject to some further information;
- Waste management;
- Terrestrial ecology;
- Freshwater ecology;
- Arboriculture;
- Landscape – subject to final plans; and
- Urban design – except for Joint Owned Access Lots (JOALs).

129. The Panel also notes that the answer to many of the concerns expressed in the comments received from Jonathon Mason and Janet Mathewson and the unnamed tenant of 35 Russell Road were addressed in the PM – particularly in terms of the Applicant’s proposed conditions and amendments to tighten up the management of off-site effects that Council has signalled it would seek if the Panel afforded that opportunity. Subsequent, unsolicited correspondence from Mr Mason and Ms Mathewson disputing the Applicant’s responses was referred to the Applicant via RFI 3 on 7 July 2025 for response.
130. The Applicant’s response to that correspondence was received on 15 July 2026¹² and addressed the following matters raised:
- transporting wastewater off-site;
 - increased fire risk;
 - reliance on the Resident’s Society to enforce rules; and
 - proximity of the SNA and threats to native wildlife.

¹¹ In that respect the reader is referred to the Auckland Council comments and annexures dated 4 May 2026 - <https://www.fasttrack.govt.nz/projects/delmore/2026-reapplication/comments-from-invited-parties> .

¹² Charlotte MacDonald, Applicant Response to RFI 3, 15 July 2026.

131. The response also included, as an attachment, an economic response from Insight Economics on the matter raised concerning the capacity of local services.
132. In its s.55 response (**the s.55 Response**) to comments, the Applicant proposed key condition changes, in summary, involving:
- *Amendments to a number of JOALs to address comments from Auckland Transport, and Auckland Council (traffic and urban design). This includes adding JOAL turning heads, loading bays, pedestrian pathways and landscaping. One new JOAL has been added within Stage 2 to remove vehicle crossings from the Stage 2 collector road. These changes have resulted in lot boundaries and typology amendments, as well as a reduction of 3 dwellings within Stage 2;*
 - *Amendments to the maintenance tracks, treatment devices and lot boundaries in relation to the drainage reserves to address comments from Auckland Council's Healthy Waters team. These changes have resulted in lot boundaries and typology amendments, as well as a reduction of 1 dwelling in Stage 1 (in the location of the WWTP lot) and 1 dwelling in Stage 2. These dwelling reductions are in addition to the 3 dwelling reductions noted above, resulting in a total of 5 dwellings being removed across the development;*
 - *A new inlet riser is proposed to the NZTA culvert to address the risk of culvert blockage;*
 - *A new road reserve is proposed on the scheme plan to the north of the NOR6 arterial road, which would connect to the Ara Hills development to the north. This roading location is in approximate alignment with the roading location identified within the Ara Hills Plan Change (PC119);*
 - *Amendments to the staging are proposed to ensure legal access to the paper road can be maintained when the road stopping is required;*
 - *Bus stops have been added to the NOR6 arterial road and collector roads in accordance with the locations identified by Auckland Transport;*
 - *Turning heads have been added to Road 10 and the termination point of the NOR6 arterial road at the end of Stage 1, to address comments from Auckland Transport;*
 - *Landscaping amendments have been made to provide pedestrian access onto lots adjoining the NOR6 arterial road, to address comments from Auckland Council (urban design);*
 - *A new road reserve is proposed to vest within Stage 2A-1 to provide for the NOR6 arterial road.¹³*
133. The amended Project resulted in 1,208 dwellings (including the Stage 1 park development and WWTP development), plus one superlot.
134. We also note the revised intention to establish a single Residents' Society and a special purpose Utility Company for the entire Project – the details of which we discuss further below.¹⁴

¹³ Charlotte MacDonald, Section 55 Response to Comments Planning Letter, 5 June 2026, at section 2.0.

¹⁴ Alexander Dorrington Lawyers, Appendix 1 Attachment 2 – Resident's Society Legal Memorandum, 3 June 2026.

135. The s.55 Response also indicated that the remaining differences with Council on outstanding technical matters related to geotechnical, earthworks, groundwater diversion and dewatering, and wastewater, have been resolved through the additional information provided, amended proposed management plans and conditions.¹⁵
136. In summary, the key remaining issues in contention between the Applicant and Council (and which cover most of the issues raised in others' s.53 comments) were:
- operational and governance matters related to the provision of water and wastewater services;
 - requirements for proposed Council-vested assets;
 - stormwater and wetland / stream geomorphology;
 - open space and reserves / park provision;
 - transport (staged access, road upgrades, pedestrian and cycling facilities, and traffic generation);
 - policy issues related to infrastructure funding; project economic benefit; and strategic planning and policy; and
 - final conditions if consent is granted.
137. We evaluate those matters under two headings – a) Effects on the environment (section H next) and b) Policies and Plans (section K below).
138. In doing so we are mindful that:
- (a) Section 86(4) FTAA provides that being contrary to the provisions of a document that the Panel must take into account is not a basis on which a decline of consent, if solely on that basis, can be grounded; and
 - (b) Clause 17(b) of Schedule 5 FTAA excludes s.104D RMA from consideration. Therefore, even though the Application is a non-complying activity overall under the RMA, the gateway tests of s.104D RMA¹⁶ are not engaged.

H EVALUATION OF EFFECTS

139. Under cl.5(4) Schedule 5 to the FTAA an applicant is required to provide an assessment of the Project's *effects* on the environment. As noted earlier, the Panel has not identified any adverse *impacts* that would not also be considered to be adverse *effects* under the RMA. The AEE and Appendices provide a full assessment of these effects, along with the comments received by parties which considered the effects of the Project.
140. Clause 6(1)(h) of Schedule 5 of the Act requires an application to include an assessment of any effects of the activity on the exercise of a protected customary

¹⁵ Charlotte MacDonald, Section 55 Response to Comments Planning Letter, 5 June 2026, at section 4.1.

¹⁶ That is, either that the adverse effects will be minor, or that the activity will not be contrary to the objectives and policies of relevant plans.

right. As there are no protected customary rights that relate to the Site, an assessment under cl.6(1)(h) of Schedule 5 is not required.

141. For convenience, in the following evaluation we start by summarising the Applicant's conclusion on effects from section 11 of the AEE.

Positive Effects

142. The AEE concluded that there was a range of positive effects as follows:
- The delivery of an infrastructure and development project with significant regional benefits, through funding and delivery of a significant portion of NoR6 which runs through the Site and connects the Ōrewa SH1 interchange at Grand Drive with Wainui Road;
 - A regionally significant increase in Auckland and the Hibiscus Coast's supply of housing, through construction of up to 1,213 proposed residential dwellings;
 - An increase in the supply of residential dwellings that will lower the average price for stand-alone homes within the Auckland Region by 0.44% (equating to \$911 million);
 - More efficient cost recovery associated with development now, which provides a regionally significant economic benefit;
 - The net benefit to the Auckland region of the application over the period 2026 to 2050 is \$1.22 billion considering direct and indirect economic impacts. The Project will generate considerable net benefit for not only Auckland but also for New Zealand;
 - Ecological protection, restoration or enhancement through the retention, maintenance, planting, and pest plant management across an area of approximately 44ha of the site area. Additional wetland areas are also proposed, which represents a net gain in wetlands of 2,173m² providing a regionally significant contribution to addressing the significant environmental issue of native biodiversity decline; and
 - Ensuring that the final piece of the development puzzle on the western side of SH1 results in a well-functioning urban environment.

Earthworks and Construction Activities

143. The AEE addressed the earthworks and construction activity effect matters in terms of erosion and sediment control, dust, subsurface stability, groundwater diversion and dewatering, construction noise and vibration, and construction traffic. In summary, based on the companion technical appendices, it concluded that, subject to the proposed suite of management plans, any adverse effects will be less than minor and there are no geotechnical constraints that preclude the type of development proposed.

Archaeological Values

144. The AEE noted the two recorded archaeological sites (both middens) and accepted that further discovery of similar sites is more than likely – hence the application for an Authority under the HNZPTA. No development work is proposed that will affect recorded site R10/776. Vegetation clearance and planting is proposed in the vicinity of recorded site R10/1573 and therefore the site is to be clearly marked and avoided. Encountering complex archaeological sites was not anticipated.

Servicing and Infrastructure

145. The AEE addressed servicing and infrastructure matters in terms of water supply (noting that the grant of a groundwater take and domestic use right application was anticipated - and has subsequently been confirmed); stormwater design, hydrological mitigation and treatment, and flood hazard management; and wastewater treatment and discharge (including matters relating to water and air discharge quality, storage of hazardous substances, operational noise and vibration, traffic related to the removal of excess treated wastewater). The AEE concluded, on the basis of the companion technical appendices, that the Project can be adequately serviced.

Ecological Effects

146. The AEE addressed both terrestrial and freshwater aquatic values and effects on those - including vegetation removal and revegetation; wastewater irrigation infrastructure and discharge within and adjacent to designated consent notice areas; fauna management and mitigation (particularly with respect to long-tailed bats and lizards); construction effects on streams, culvert removal and replacement, and wetland reclamation and creation. The AEE concluded, on the basis of the companion technical appendices and the proposed management plans and offsetting, that the residual effects of the Project will be acceptable with net ecological benefits accruing longer term.

Urban Form and Neighbourhood Character

147. The AEE addressed urban form and neighbourhood character matters in terms of design and layout, built form and appearance, residential amenity and CPTED¹⁷. The AEE concluded, on the basis of the companion technical appendices, that the Project will provide for a quality urban environment, with a good level of amenity and positive urban design outcomes.

Transportation and Rooding

148. The AEE addressed transportation and roading matters in terms of traffic generation and access to the site involving the Grand Drive interchange, Upper Ōrewa Road roundabout and upgrades, the internal road network and associated pedestrian and cycling provision, and on-site parking / garaging. The AEE concluded, based on the

¹⁷ Crime Prevention Through Environmental Design.

companion technical appendices, that the secondary opening of access onto Upper Ōrewa Road at Stage 2 will address predicted congestion on Grand Drive once the c.1,325 dwelling threshold from both Ara Hills and Delmore is reached; that road safety for pedestrians and cyclists within the development has been appropriately designed in; and that parking demand can be appropriately managed within the Site.

Landscape and Visual

149. The AEE assessed the landscape and visual matters as being low in terms of the cumulative adverse landscape character effect (primarily due to the land's FUZ status), and very low to low-moderate for visual effect from wider views and low for close proximity views because of the Project's design and mitigation detail.

Reverse Sensitivity

150. The AEE concluded that adverse reverse sensitivity effects on character and amenity values, including on neighbouring rural activities and infrastructure, will not arise because of the way in which the comprehensive residential development has been masterplanned.

Subdivision

151. The AEE noted that it is proposed to undertake freehold subdivision with each dwelling on its own lot with 49 JOALs for vehicle access to several dwellings (based on the AUP's Residential - Mixed Housing Suburban template). All dwelling lots have been designed to ensure that they are free from any inundation in a 1% AEP. One Stage 2 residential superlot and one commercial superlot are provided. The AEE concluded that any potential adverse effect will be less than minor and acceptable.

Mitigation and Monitoring

152. The AEE noted, as required by cls.6(1)(d) & (g) of Schedule 5 of the FTAA, that mitigation and monitoring provisions are included in its proposed condition set in accordance with the recommendations made in the companion technical appendices.

Comments received

153. As noted in section G above, many of the Project's assessed effects and proposed management responses have been agreed / supported in the comments received – subject to the adoption of further amended conditions – which the Applicant has largely accepted (we discuss those conditions that remain unresolved later in the Decision).
154. We therefore turn now to those matters that remained in contention at that time.

Water and Wastewater services

155. The Applicant proposes that both water supply and wastewater services are provided privately – in light of WSL's position that neither can be provided from existing or

presently scheduled and funded works. The Applicant proposes that those plants and the associated land would be owned and operated by itself (through a company structure) rather than by the two (now one) proposed Resident's Societies, which would have oversight for the respective reticulated networks.

156. Notably, the Application for the discharge of treated wastewater is limited to Stage 1. The Applicant does not seek consent for that activity for Stage 2. Rather, it provides the following consent chapeau and subdivision condition:

For clarity, these consents do not authorise the on-site treatment and disposal of wastewater generated by Stage 2 of the development. Prior to the issue of section 224(c) certification for any lots within Stage 2, the Consent Holder must either obtain all necessary approvals and resource consents for Stage 2 wastewater treatment and disposal, or provide a connection to the public wastewater network if that is available at that time.

Prior to the issue of any section 224(c) certificate within Stage 2 of the development, the Consent Holder must provide evidence that suitable provision has been made for the disposal of wastewater, or a connection can be provided to the public wastewater network in accordance with Condition 12 (general conditions).

157. This approach allows the Applicant to seek a future change to consent or an additional consent for on-site disposal; or approval for tankering off-site; or connection to the public network. If one or other of those options cannot be implemented, the lots cannot be released.
158. While this is not wholly an environmental effect matter, it is convenient to deal with it in this section because the effect of that decision involves discharge to land and water, and transportation and operational effects from the treatment plants and need to transfer liquid waste off-site.
159. With respect to water supply, Council's reviewer noted from the Application that Stage 1 would be serviced by bores PB1 and PB2 via a raw water collection tank, treatment plant and booster system pressurising the Stage 1 reticulation. Stage 2 would be serviced by bores PB3 and PB4, with treated water pumped to elevated reservoirs from which the network would be gravity fed. The supporting drawings show a 400m³ raw water collection tank, a 1,600m³ treated water storage tank for Stage 1, and two 565m³ Stage 2 reservoirs with provision for a third if required.¹⁸
160. The Applicant has obtained (WAT60456696) groundwater take and use consent for 1,385m³/d and 195,707m³/yr for domestic supply for up to 1,217 dwellings from the underlying Ōrewa Waitemata Aquifer¹⁹. The Applicant also has the required land use consents (LUC60456721 and LUC60456730) to drill the two proposed Stage 1 groundwater production bores.
161. That is considered adequate supply for both stages of the Project if a connection to the public network is unavailable. WSL noted that the existing public watermain

¹⁸ Auckland Council, Annexure 17: Water Treatment, 4 May 2026, at section 3.0.

¹⁹ Auckland Council, Memorandum of Planning Matters, 4 May 2026, at [114].

adjacent to the site do not have sufficient existing or planned capacity to service the Project, and it does not support such a future connection because of higher operational and water safety risks. WSL cautions:

... due to the complexity of connecting 1,213 individually owned dwellings to the public network some 25 years in the future, including the vesting of private assets that have been operational, managed and maintained outside of Watercare's control, future connections to the public networks may not be feasible and cannot be committed to now.²⁰

162. When commenting on the Project, Watercare noted that any private water supply and/or wastewater servicing for the Project would be subject to regulation by Taumata Arowai as the Water Services Regulator²¹. As a consequence, by way of a Request for Further Information dated 12 June 2026 (**RFI 1**), the Panel asked the Applicant and the Council to advise on the nature of any authorisations required for water supply and waste water under the Water Services Act 2021 (**WSA**), and how this might impact on the drafting of conditions for the Project with respect to the provision of private water supply and waste water services.
163. The Applicant's and Council's responses were largely aligned, noting that any private water supply network for the Project would be considered a 'drinking water supply' and the operator a 'drinking water supplier' as the water will be being supplied to more than 25 consumers. It was further noted that the utility company operating the private water supply for the Project would be required to register a 'drinking water supply' and would need to comply with any duties and obligations under the WSA, as well as relevant standards and rules. The Applicant concluded by advising that the draft conditions before the Panel reflected these requirements.
164. Both parties agreed that at present the WSA does not currently impose any duties and obligations for private wastewater regimes and that it was unnecessary for the Panel to consider future regulations for the purposes of drafting consent conditions. Therefore, and as proposed, our consideration falls solely under the relevant provisions of the AUP that seek to control potential effects of discharges arising from the treatment and disposal of wastewater.
165. With respect to wastewater, apart from the immediate strategic out-of-sequence connection matter raised, WSL noted in its comments that:
 - (a) While the Rosedale and the Pukekohe WWTPs are equipped with facilities to receive wastewater from tankers, the Applicant's assumption that it would allow access to those facilities is not correct. There is no general right of entry of wastewater tankers to Watercare facilities and trucking from the Site to those WWTPs was not supported for the following reasons:

²⁰ Watercare Services Limited, 23 April 2026, at [42].

²¹ Comments from Watercare on the Application, 23 April 2026, at [26].

- i. Increased traffic associated with tankering operations can lead to disruptions to the local community including noise, odour, congestion, and safety concerns.
 - ii. Tankering wastewater requires specialised tankers and trained personnel, leading to significant operational costs. The fuel consumption, monitoring, cleaning and equipment maintenance contribute to the overall high cost of tankering.
 - iii. Wastewater from tank farms contains hazardous silt or sludge that requires regular cleaning via specialist Hydro Evacuation trucks and disposal at specialist waste facilities, adding cost and complexity.
 - iv. Transporting wastewater over long distances has a high carbon footprint as there are only limited facilities that can receive the tankers in Auckland. There is also the risk of spills or leaks during transportation which can result in damage to the natural environment.
 - v. There is the potential for infiltration of stormwater into the wastewater network, particularly during heavy rainfall events. This can fill the tank farms in a very short period of time and requires increased tankering to empty the tanks. It carries risk of system failure and overflows.
- (b) For the avoidance of doubt, Watercare stated:
- i. No part of its wastewater infrastructure, including the RO waste stream, will accept discharge from the Project's tankered effluent; and
 - ii. It will not enter into any arrangement with the Applicant for tankering of waste to any of its facilities.
- (c) Reliance on a large scale LPS system is not supported under the Water and Wastewater Code of Practice for Land Development and Subdivision (Code of Practice) for developments of this size, due to associated operational and septicity risk, and its misalignment with the long-term network servicing plan for the area. Given that possible network connection capacity is not anticipated to be available until at least 2050, Watercare could not confirm future connection or asset acceptance.
- (d) Interim private systems for servicing residential subdivisions that create multiple freehold titles consequently create multiple asset owners. This fragments responsibility for operation, maintenance, renewals and eventual decommissioning which causes long-term uncertainty and risk: interim private systems may be inconsistently maintained, are difficult or impossible to integrate into the public network and often become permanent by default.
- (e) The Option 2 pumped discharge into a manhole at the top of Grand Drive, thence to the existing public gravity wastewater reticulation through to the Army Bay WWTP is neither available nor acceptable from a LPS-based network.

166. Regarding wastewater, WSL therefore advised that the wastewater infrastructure should be considered a permanent private solution rather than an interim solution to be designed, consented and operated on that basis.
167. The Panel is mindful that the FTAA was amended in December 2025 to enable conditions to be set that recognise infrastructure solutions that are adequate to support projects (s.84A).
168. In this case, WSL's clear signal that it should not be considered the provider of last resort brings that provision to the fore and that the Panel cannot, via conditions, require WSL to provide new connections, commit funding for infrastructure or accept the vesting of assets. The question, therefore, that the Panel must answer is whether or not what is proposed for both water and wastewater servicing, as a permanent (or at least very long-term) solution, is appropriate.
169. We acknowledge in principle the matters raised by WSL. Development that is out of sequence with the provision of public infrastructure can create significant challenges for infrastructure planning and implementation and can have flow-on effects for other development within existing live zoning. Such 'out of sequence' development requires a sophisticated approach to internalising its infrastructure provision, and with genuine certainty of that being available for the necessary timeframe for which it will be required.
170. We are satisfied that water supply will be adequately provided through the existing water take consent and water treatment proposed, and via obligations under the Water Services Act 2021. That is no longer a matter of contention between the Council, WSL and the Applicant. The proposed system is not reliant on a future connection to the public system, albeit that could be sought and approved at a future time with agreement from WSL.
171. WSL has confirmed that wastewater reticulation to the development may not be available until at least 2050, noting the following pre-requisite infrastructure works:
- Army Bay WWTP Stage 1 Upgrade - anticipated to be completed 2031.
 - Army Bay WWTP Stage 2 Upgrade - anticipated to be delivered in line with the FDS timing of 2050+;
 - Orewa to Stanmore Wastewater Trunk Network Upgrade - anticipated to be completed by 2033.
 - Stanmore Wastewater Pump Station (WWPS) and Rising Main (RM) Upgrade - anticipated to be completed by 2031.
172. The Applicant has responded to this scenario by proposing a system for Stage 1 of the development comprising onsite wastewater treatment and disposal, with the provision of tankering treated wastewater offsite in summer months. As outlined in

Appendix 29 to the Application, tankering off-site would take place under 3 scenarios:

- (a) Public connection is confirmed as being available early in the development of Stage 1 such that interim short-term tankering off-site rather than construction of the WWTP and its associated irrigation / infiltration network makes sense – capped at 264 dwellings;
- (b) In summer months when low-flow conditions in the stream network make the full irrigation / infiltration discharge volumes inadvisable – capped at 101.5m³/day, being the equivalent of 187 residential dwellings²² (noting that this is still highly treated WWTP effluent albeit without the final stage reverse osmosis treatment); and
- (c) In the event of a significant outage of the WWTP.

Appendix 29 noted that at full build-out of Stage 1, wastewater is calculated to equate to 9 tankers or 314m³ per day²³ – however, that will take some years to achieve.²⁴

- 173. The tankering does not rely on acceptance to WSL sites. The WWTP has been designed to allow upscaling to receive and treat wastewater from Stage 2 of the development, although the consent application does not seek authorisation for the disposal of wastewater from Stage 2. A conditioned hold-point is proposed that requires a wastewater disposal system to be approved for Stage 2 prior to the issue of section 224(c) certificates for any lots within that stage. The Applicant has provided, through its responses, confirmation that feasible options are available for the disposal of Stage 2 wastewater - although consent for that is neither sought nor granted.
- 174. Aside from the matter discussed later regarding the provision of an offset area, the conditions associated with the s15 RMA consent to discharge treated wastewater and associated discharges to air are extensive and agreed between the Applicant and Council. They provide for the treatment of wastewater from all lots within Stage 1. We have not identified any reason to challenge or alter those and find that they will appropriately minimise the potential adverse effects of on-site wastewater treatment and disposal for Stage 1 of the development.
- 175. Conditions offered also provide for:
 - (a) Design standards and certification for all reticulation and on-site treatment systems.

²² Application Appendix 29, Apex Water, 25 November 2025, page 63.

²³ Off-site summer tankering is calculated to require 5 - 7 tankers per day for the 3-month period once full build-out of Stage 1 and the daily discharge cap is reached.

²⁴ Application Appendix 29, Apex Water, 25 November 2025, Table 27, page 100.

- (b) Management of tankering;
 - (c) Hold-points requiring provision of treatment systems before issue of s224(c) certificates for corresponding stages;
 - (d) Future connections to the WSL public reticulation (if available and approved);
 - (e) Acknowledgement of developer's risk for future acceptance of reticulation by WSL;
 - (f) Decommissioning of the on-site treatment systems (where public connections are provided);
 - (g) Establishment of a Resident's Society to fund the treatment plants and associated infrastructure and a Utility Company to own and operate the treatment plants and associated infrastructure.
176. Having carefully considered these matters, we are satisfied that the on-site wastewater treatment and disposal system is technically feasible and able to comply with the various conditions proposed and agreed with Council. Consequently, on a technical basis we find that it will adequately service the needs of future residents and community facilities, and ensure off-site effects are appropriately minimised.
177. While beyond the scope of the current applications and subject to precedent hold point conditions, we are also satisfied by the technical information and responses provided that feasible options are available for the treatment and disposal of wastewater from Stage 2 – without which Stage 2 is effectively paused.
178. Tankering treated wastewater off-site during summer months is obviously reliant on acceptance by off-site facilities. The volume of wastewater required to be trucked will vary in response to seasonal rainfall²⁵ and will progressively increase as the occupancy of the development advances. We acknowledge that the information provided does not include confirmed acceptance contracts by the identified receiving facilities. However, we are satisfied that facilities are available and that the development would not be reliant on WSL to receive tankered loads. We also note that the possible option of tankering all wastewater in the initial stages of development will only be taken if a connection to the public system is imminent. While that is an unlikely outcome, on the basis of the information provided, we are comfortable that if such did become available, then it is a reasonable (albeit not ideal) approach in the short-term and its management has been considered in the application material.
179. Of critical interest to us is how the technical provision of the wastewater and water supply systems will be ensured. Having initially proposed two Resident's Societies to manage and operate the systems, the Applicant now proposes that a single Resident's Society oversee and fund the infrastructure and that a Utility Company be

²⁵ E.g. some summers may be wetter than others.

established to own and operate the treatment plant infrastructure. Proposed subdivision conditions 46 – 49 have been agreed with Council to establish and set the obligations for those entities. We find that the proposal now has a sufficiently robust legal framework for ensuring the ongoing operation of the infrastructure, and importantly, identifiable entities that will be responsible for ongoing compliance with consents and liability for action in the event of non-compliance.

180. We note that Council has sought a biodiversity offset-site for the wastewater irrigation field, as a contingency for a significant system failure resulting in adverse ecological effects at the nominated and covenanted disposal site of Lot 5001. It requested specific conditions requiring the identification and legal protection of an offset area of equivalent of greater size and ecological value before discharge commences within Lot 5001. That condition was not considered necessary by the Applicant.
181. Council's position is that while a low probability, a failure of the disposal field irrigation system within Lot 5001 may necessitate significant disturbance of established vegetation and biodiversity values during the works necessary to resolve such a failure. The Applicant responded that the probability of failure of the proposed irrigation system was very low, given that it will be discharging pre-treated wastewater with solids removal down to 0.4 micron. Moreover, the Applicant stated that it could not identify any examples of such an irrigation system failing. Within its response, the Applicant stated:

As previously outlined, the proposal incorporates multiple safeguards consistent with municipal-scale wastewater infrastructure, including system redundancy, balance storage, real time monitoring, controlled irrigation rates, backup power supply, and conservative treatment and discharge standards. Collectively, these measures are specifically intended to prevent uncontrolled discharge events and ensure that any system faults are identified and managed before adverse ecological effects occur.

Further clarification has now been provided by Apex Water Ltd confirming that any credible failure scenario would most likely occur at the treatment stage, rather than the disposal field itself. In such circumstances, flows would continue to be managed through redundancy, storage, operational controls and the ability to tanker wastewater off-site if required, rather than resulting in uncontrolled discharge to land. The disposal field itself is a passive, controlled system and is not considered a realistic point of catastrophic failure.²⁶

182. In response to the Council's concerns and as a contingency, the Applicant has offered an additional condition to provide procedures to be implemented in the event of a failure of the wastewater irrigation system that results in adverse ecological effects.
183. We agree with the Applicant and consider that the additional condition is sufficient to address the issue. We find that the risk of irrigation field failure is low, and while works that may be necessary to repair a failed irrigation system could result in disturbance of vegetation and biodiversity values, those values can recover through

²⁶ Appendix A24 (Terrestrial Ecology), 3 June 2026, pages 25 and 26.

natural regeneration or supplementary planting. Hence, the loss would not be permanent. On that basis we see no justification for the provision of an offset site.

Proposed Council-vested assets

184. The Applicant proposes to vest all land associated with the communal / public drainage system to Council.
185. Council / Heathy Waters advised that there are disproportionate areas proposed to be transferred to public ownership which Healthy Waters consider are not acceptable and is not consistent with the Manaaki Tāmakī Makaurau: Auckland Open Space, Sport and Recreation Strategy. These include:
 - a) Land (including riparian margins) which is not required to support the device and its function, or accommodate its ancillary elements (including maintenance access, spillways and outfalls).
 - b) Structures (including walls and earth reinforced batters) which are supporting surrounding private land and public roads.
186. In its RFI response²⁷ the Applicant confirmed that all walls and earth reinforced batters will be located within and remain within private land i.e. outside of the drainage reserve boundaries. The Applicant has provided typical design details for retaining those areas, amendments to conditions to require the Applicant to provide detailed plans to Auckland Council at EPA stage and that the detailed plans would be generally in accordance with those typical details. This will address design elements to minimise visual effects. The conditions have also been amended to require the drainage reserves to include security fences and lockable gates, given that these reserves are to function solely as stormwater devices and should not allow for public access.
187. On the basis of these amendments, we find that the matters raised by Council have been satisfactorily addressed and will minimise to the extent practicable, ongoing maintenance obligations and costs on the Council

Transport

188. The Applicant proposes staged access aligned with the staging of the subdivision development and release of lots. Stage 1 access will be via Grand Drive and the Grand Drive interchange with the Northern Motorway. This will require the formation of the approximately 120m of the Grand Drive Extension within the Ara Hills development, from the current eastern terminus of Grand Drive to the Delmore boundary, referred to as the Grand Drive Connection. The Applicant confirmed in its RFI 1 response that those works are not covered by the consent applications sought.

²⁷ Memorandum: Applicant and Council Response to RFI 2; 8 July 2026, section 2.0, Item 8

They will involve works within land vested in Auckland Transport and a small area of land held by AVJ²⁸, and will be consented separately.²⁹

189. Stage 1 also includes the continuation of Grand Drive through the stage, within the designation boundary of NoR6. Internal roads are to connect to the Grand Drive Extension spine. Provision is made on the northern boundary for an internal road connection to a future Ara Hills stage.
190. Stage 2 will comprise a connection to the Grand Drive Extension within Stage 1 via a roundabout, and a new roundabout intersection with Upper Ōrewa Road. Traffic will enter and exit Stage 2 via Grand Drive, or via Wainui Road and Upper Ōrewa Road. Primarily, the traffic route via Wainui Road will originate via the Wainui Interchange with SH1.
191. To ensure the proposed timing of road upgrades, the Applicant has offered consent conditions summarised as follows:
 - Prior to the issue of section 224(c) for the first stage of the subdivision that is developed, access via the alignment of the Grand Drive Connection must be constructed.
 - Prior to the occupation of more than 573 dwellings, Roads 5 (connection to Stage 1) and 17 (connection to Upper Ōrewa Road) must be constructed and operational, including the roundabout at Upper Ōrewa Road and approaches with specified sight distances; and
 - upgrade Upper Ōrewa Road between Road 17 and Wainui Road to provide minimum 1m sealed shoulders on both sides of the road;
 - upgrade the Upper Ōrewa Road / Wainui Road intersection to provide a right turn bay on Wainui Road and a left turn lane on Upper Ōrewa Road;
 - widening of Wainui Road to provide minimum 1m sealed shoulders on both sides of the road to the Waterloo Creek bridge;
 - construct a temporary off-road footpath (minimum 1.8m in width and an all-weather surface) along Upper Ōrewa Road and Russell Road between the Road 17 / Upper Ōrewa Road intersection and the eastern boundary of the Delmore site; and
 - upgrade the intersection of Russell Road / Upper Ōrewa Road to provide additional road markings in accordance with the Commute drawing titled “Russell Road / Upper Ōrewa Road upgrade” and dated 15 April 2026.
 - In addition, where off-site disposal of wastewater is to occur for Stage 1, an upgrade of Russell Road and its intersection with Upper Ōrewa Road is to be

²⁸ AVJ registered a new name as AVID Hobsonville Pty Limited on 6 May 2026.

²⁹ AVJ has indicated it will sell that land to the Applicant at a small nominal cost.

undertaken to provide for safe passage of trucks and other road users.

192. Public transport was addressed in Commute's ITA. The arterial road (Grand Drive Extension / NoR6) is the primary bus route through the site. No bus stops are proposed to be constructed as part of this development. However, bus stops are expected (by the Applicant) to be installed in the future, when demand requires it. Provision has been made for these with locations to be determined through discussion with Auckland Transport.
193. In its Planning Response document, the Applicant also confirmed:
- a new road reserve is proposed on the scheme plan to the north of the NoR6 arterial road, which would connect to the Ara Hills development to the north. This roading location is in approximate alignment with the roading location identified within the Ara Hills Private Plan Change 119;
 - amendments to the staging to ensure legal access to the paper road can be maintained when the road stopping is required;
 - turning heads have been added to Road 10 and the termination point of the NoR6 arterial road at the end of Stage 1, to address comments from Auckland Transport;
 - landscaping amendments have been made to provide pedestrian access onto lots adjoining the NoR6 arterial road, to address comments from Auckland Council (urban design); and
 - a new road reserve is proposed to vest within Stage 2A-1 to provide for the NoR6 arterial road.
194. Through its Response to Comments the Applicant has confirmed that it proposes to complete the connection of Grand Drive (via NoR6 designation) all the way to the future intersection with Upper Ōrewa Road prior to the completion of the final sub-stage of the subdivision - i.e. before completion of Stage 2. The Applicant has offered a consent condition to impose that as a requirement. That section of NoR6 is not covered by this current consent application. The construction of this section of road is covered by the designation but future regional consents will be required.³⁰ We do not consider this to be a determinative matter for this proposal. The road is planned and designated, and such future consents will be necessary by whoever constructs the road; its construction is not a matter of specific relevance to the matters before us. The timing of its construction and use, however, is relevant and remains a matter of contention between the Applicant and Auckland Transport.
195. The Applicant has provided engineering design by McKenzie & Co and an Integrated Transport Assessment prepared by Commute Transportation Consultants. In its Response to Comments the Applicant provided an updated Roding and Access

³⁰ E.g. potential consents for earthworks, culverts etc.

Report prepared by McKenzie & Co that addresses network design, geometry and standards, roading stormwater management, pedestrian and cycling facilities, utilities and safety, responding to comments provided by Auckland Transport and Council. That report states that the only departure to standards involves the longitudinal grade of various local roads that are to exceed 8% due to geographical constraints. No options have been identified that would avoid that departure.

196. Within the NoR6 corridor there is currently a difference in the Applicant's preferred alignment of the Grand Drive Extension (straight line to the boundary) versus the current alignment consented for Ara Hills (slight curve to the south). AVJ (Ara Hills) has vested (as a paper road) the currently consented alignment to Council and has indicated willingness to work with the Applicant to achieve the Applicant's preferred alignment. However, in its Response to Comments the Applicant has provided an alternative alignment for the Grand Drive Connection through Ara Hills which remains within the NoR6 designation boundaries and the currently consented Ara Hills alignment. Based on the response to comments and responses to RFIs we are satisfied that this matter can be resolved and that the optimum alignment of this connection can be achieved.
197. Responsibility for funding and constructing the Grand Drive Extension is unresolved between the Applicant and AVJ. AVJ's position, as stated, is that it is not required to construct the connection and does not have consent for that work. To avoid more extensive and unnecessary discussion in this decision report, the Panel finds that this is not a matter that it needs to resolve. The proposed conditions (as precedent) require that the connection be formed as a milestone in the staging of the Applicant's development. Who funds and undertakes that work is not determinative of the consideration of the effects of the Project.
198. In its Response to Comments and RFIs the Applicant has indicated that it has either adopted conditions requested by Auckland Transport or proposed amended conditions to address those comments. The remaining areas of disagreement are summarised as follows.

Southern extension of NoR6 road

199. The Applicant has proposed subdivision condition 14 that requires the extension to be constructed "*Prior to the issue of a s224(c) certificate for the last sub-stage of the subdivision*" and specifies the typology of the road and its intersection with Upper Ōrewa Road. Most of the condition is agreed but Auckland Transport seeks that the road be constructed before the issue of a s224(c) certificate for '*any part*' of Stage 2. Auckland Transport's reason for seeking that requirement is that if left to the final sub-stage, the road extension may not be built. We infer that the concern is that it may not be built by the developer within a timeframe preferred by Auckland Transport in the event that the final sub-stage is not constructed, or is deferred.
200. We note in the Applicant's RFI response that the traffic engineers for the Applicant and Auckland Transport are in agreement that that road extension is not needed to

support the proposed development. At Item P of the Executive Summary of his assessment provided for Auckland Transport³¹, Mr Schischka of PTMP Consultants states:

I consider that it is not necessary to connect the NOR 6 Road through to the intersection of Upper Oweria Road and Russell Road as part of the proposed subdivision provided that the measures proposed by the applicant, including a connection between Road 17 and Upper Oweria Road and upgrading Upper Oweria Road are undertaken. A turning head is now proposed the south end of the NOR 6 Road. The NOR 6 Road will eventually need to be connected through but this can happen when the land to the south of Delmore is urbanised.

201. The designation has now been confirmed and adopted. While we understand the ongoing funding pressure that applies to Auckland Transport and other public infrastructure providers, the evidence received does not indicate that the road extension is necessary to service the development. Moreover, a 30 year horizon is likely to see the completion of the development, or alternatively, provide sufficient lead in for funding and delivery of this section of the road by Auckland Transport. This will no doubt be influenced by future development to the south of the subject site which we consider also likely to occur well before the 2056. For these reasons we do not support the modification of the condition sought by Auckland Transport.

Walking Link to Arran Drive

202. Auckland Transport sought provision of a safe walking or cycling link across the SH1 / Grand Drive intersection extending to Arran Drive, some 700m east of SH1, with a corresponding condition provided. This link is a requirement of the Ara Hill project, with up to 300 dwellings permitted to be constructed prior to this infrastructure being in place. The Applicant considers this to be an obligation to be met by Ara Hills outside of the Applicant's control. Requiring it to be provided early in the development would be a materially different approach than is currently imposed on Ara Hills.
203. We agree with the Applicant. The link extends a significant distance away from the Delmore site, extending more than 700m east of the Ara Hills site. If its formation is a requirement of the Ara Hills development, then that is the appropriate mechanism to provide for its delivery.

Grand Drive connection

204. Council sought a condition requiring the Grand Drive connection to be a two-lane arterial with a flush median and active modes on each side. The Applicant has expressed an intention to achieve that design standard but seeks some flexibility in the timing of its delivery, based on ongoing uncertainty about the timing of funding agreements, finalising the alignment with Ara Hills, and final design approvals. The Applicant seeks a condition that would accommodate an interim design of a lesser standard to provide access to the initial sub-stages of the development.

³¹ Addendum to Annexure 21 Auckland Transport of the Council Comments, 4 May 2026.

205. We acknowledge the Applicant's approach but consider that some certainty of delivery of the full design standard should be incorporated into the conditions. In that regard we agree with Council and adopt its proposed condition wording

Walking and cycling link to Ministry of Education Land

206. Auckland Transport identified the lack of a suitable walking route for access to land recently purchased by the Ministry of Education on land west of Upper Ōrewa Road near the intersection with Wainui Road. Auckland Transport recommended that a footpath extension be provided down Upper Ōrewa Road to that site and provided a corresponding condition. The Applicant does not support this requirement based on:
- a) the absence of a live designation for the school site or known timing of when the school would be built; and
 - b) the path connection would be difficult to construct and would require a bridge over the Ōrewa River. The NoR6 road is proposed to be constructed on this alignment and will ultimately provide a permanent active mode connection.
207. We agree with the Applicant for the reasons it has stated.

Stormwater and wetland / stream geomorphology

208. The Applicant's approach to stormwater management is based on the following principles, as detailed in the Executive Summary of the Stormwater Infrastructure Report prepared by McKenzie & Co and provided with the Applicant's Response:

The stormwater network design aligns with relevant legislation and Auckland Council standards, including the Building Act, Auckland Unitary Plan, Stormwater Code of Practice (V4), Auckland Council's Regional Network Discharge Consent (NDC), and guidance documents like GD001, TP108, and TR 2013/018. Climate change projections of 2.1° for the 10% Annual Exceedance Probability (AEP) event, and 3.8° temperature increase 1% AEP event.

Quality, Retention, & Detention: Low contaminant generating building materials, on lot tanks and raingardens, are proposed for lots. Gross pollutant traps (GPTs) & communal raingardens are proposed to treat runoff from roads and Joint Owned Access Lots (JOALS).

Primary & Secondary Systems: Lots fronting streams will discharge direct to the streams. A new primary network of catchpits and pipes will manage flows up to the 10% AEP event, while secondary OLFPs within road reserves will handle 1% AEP events.

Culvert Crossings: Multiple box culverts are designed to be embedded a minimum of 350mm below the streambed. For all culverts, riprap will be installed to reduce erosion and maintain natural flow regimes.

Flood Management & Overland Flow: The design ensures no significant adverse flooding effects upstream or downstream, with proposed Delmore building platforms set above modelled flood levels and climate-change-adjusted flows.

Operations & Maintenance: Maintenance access is integrated into the design for culverts, raingardens, and riprap areas. Periodic checks, especially after major storms, will safeguard infrastructure performance and water quality.

Discharge Consent: A stormwater discharge consent will be required for discharges from the development. In the future if the land becomes zoned from Future Urban Zone to a residential zone, it is anticipated that the area will eventually be adopted into Auckland Councils Regionwide Stormwater Network Discharge Consent (NDC). The infrastructure has been designed with this in mind, with an accompanying draft Stormwater Management Plan that can be adopted in the future, as part of that process.

209. Stormwater treatment is to be provided through a combination of individual lot controls (low contaminated roofing materials, first flush diversion devices, retention/detention tanks, and small on-site rain gardens), public gross pollutant traps and communal rain gardens. Discharge points to stream outlets will be designed to reduce potential erosion using T-bar dissipaters, rip rap and other energy dissipation measures.
210. Stormwater management requirements that are to be implemented within individual lots are to be locked in via consent notices on each title.
211. The Applicant has provided a draft Stormwater Management Plan and proposes stormwater detention and retention in accordance with Healthy Waters' recommendations. A Rapid Geomorphic Erosion Assessment has also been provided. In its comments Council (incorporating reviews from its own stormwater specialist, Healthy Waters and Auckland Transport) identified what it considered to be various information gaps. Council recognised that a Geomorphic Response was being prepared by the Applicant, but it had not had time to review that before preparing its comments. Additional conditions were recommended by Council. Auckland Transport required that culverts be fully assessed under the Code of Compliance at this consenting stage as they also require consideration as dams in accordance with the Building Act 2004 and Building (Dam Safety) Regulations 2022 – not further deferred through conditions. Other matters of concern related to geomorphic (stream erosion) effects, operation and maintenance legal access, and habitable floor levels in relation to potential culvert blockages.
212. In its Response to Comments the Applicant provided modifications to conditions, some of which are agreed and others offered to address Council's comments but were yet to be reviewed and agreed by Council.
213. For completeness, and excepting erosion effects, we note that Council is satisfied that the Project will not result in adverse surface water quality effects, subject to modification of conditions. The Applicant has responded with suggested edits to conditions.
214. With respect to geomorphic effects, Council has confirmed that the Application satisfactorily addresses the potential loss of stream and wetland value, but that the potential effects on streams and wetlands from additional stormwater discharge required further assessment. In response, the Applicant has provided a Geomorphology Response Memo prepared by Morphum Environmental, and a corresponding Geotechnical Memo prepared by Riley Consultants. The assessments

inform each other in terms of engineering assumptions and geomorphological responses. This analysis confirmed the proposed riparian setbacks and has informed the proposed culvert design and stormwater discharge T-bar design, large woody debris management, and controls on in-stream works.

215. The Morphem assessment also addressed wetland channelisation risk from the proposed urban stormwater discharges. At section F1 it concludes that:

While localised increases in hydraulic forcing may occur, these are not widespread across wetland reaches and are not expected to materially alter the existing diffuse flow regime.

and proposes a proportionate monitoring approach which is provided in the Applicant's Response conditions.

216. Through the RFI responses it was confirmed that the Applicant and Council have agreed a set of conditions to monitor and manage geomorphic effects that may arise from stormwater disposal. Likewise, agreed conditions have been achieved regarding the design and management of culverts and associated damming of water, and control of habitable floor levels.
217. There remains disagreement regarding the vesting of drainage reserves. The Applicant seeks conditions that assume the vesting of that land to Council and the provision of easements to those reserves for maintenance access. Council seeks wording that does not assume vesting. Rather, it seeks a condition that provides for vesting if a sale and purchase agreement has been entered into but otherwise requires the drainage reserves to remain in private ownership and with ensuring private maintenance obligations. The Council states that the FTAA process does not provide sufficient lead-in to integrate new open space requirements into the Development Contributions framework to cover the management of such assets. Thus, it cannot commit to talking on management of those reserves, although may well be able to in due course.
218. We accept Council's reasoning on this matter and adopt its requested conditions.

Open space and reserves / park provision

219. The Applicant has identified 2 neighbourhood parks - one in each of the two stages, being Lots 1800 (3,044m²)³² for stage 1 and 5020 (3,075m²)³³ for stage 2 – intended to be vested in Council or, in the case of Lot 5020, the Resident's Society.
220. The Applicant's position on the Stage 1 lot 1800 in the event that Council decides not to take up the vesting option was not altogether clear. In its s.55 FTAA response to comments, the Applicant expressed the view that there is no reason for Council not accepting the park as it accords with its Parks Policy and meets the required metrics for a neighbourhood park. It also noted that the neighbourhood park required of the adjacent Ara Hills development would adequately service future residents of the

³² Section 55 Response - Appendix 4 - Stage 1 Scheme Plan, McKenzie & Co, dwg 3725-1-136 Rev K.

³³ Section 55 Response - Appendix 4 - Stage 2 Scheme Plan, McKenzie & Co, dwg 3725-2-170 Rev 1.

Delmore Stage 1 site (although Council disputed that conclusion) and therefore suggested that lot 1800 should be released for additional residential development if not vested.

221. Whilst the Panel acknowledges the numerous drainage reserves being provided (8 drainage reserves totalling 13,574m² for Stage 1 and 5 drainage reserves totalling 7,377m² for stage 2) and protected reserve areas / walkways – these contributing to the overall extent of both passive and active open space within and adjacent the development – neighbourhood parks serve a different recreational function. Future Stage 1 residents are likely to be focussed south of NoR6 – and certainly as far as their children are concerned from a safety and oversight perspective.
222. Reasonable access to neighbourhood parks, however subsequently administered, should be part of the infrastructural fabric of an intensified residential area. Accordingly, the Panel will require both “parks” to be established. Whether that is to be vested in Council or managed by the Resident’s Society we leave to be decided.

The Resident’s Society – Infrastructure role

223. The Application proposed that there be two resident’s societies established (one for each stage of the Project) to manage the private infrastructure, which, along with the land it would be situated on, would be owned by the Applicant. It was unclear to the Panel how such an arrangement would operate in practice. In particular, the Panel had concerns regarding the shared roles between the developer as the asset owner and the two residential societies that would need to effectively manage mutual assets.
224. The Panel, by way of Minute 2, sought clarification from the Applicant as to the efficacy of such an arrangement, including further information on other developments where such arrangements had been successfully implemented. The Panel also sought an explanation regarding a statement in the Wastewater Report which noted that where a LPS is privately owner it needs to be maintained by a utility company, and how that requirement would factor into the arrangement above.
225. As part of its response to comments the Applicant provided the Panel with an opinion from Alexander Dorrington³⁴ which included a revised proposal for the management of the private wastewater and water treatment plants. This proposal was based on examples used in other locations, particularly Karaka North Village in Auckland south with a design development of 850 residential units. In short the proposal involved:
- (a) One overall Resident’s Society for the Project, with constitutional documents that provide the necessary flexibility to address the possibility that Stage 2 might also need private wastewater and/or that some stages may be able to connect automatically to the public system;

³⁴ S.55 Response Appendix 1 Attachment 2 Residents Society Legal Memorandum, 3 June 2026.

- (b) A utility company, established to own, operate and maintain the plants and associated infrastructure; and
- (c) A registered lease of the land to the utility company upon which the private wastewater and water treatment plants are located. This would provide the necessary flexibility where the land may not be required long term for the private wastewater and water treatment plants but is able to deliver the legal certainty for lot owners that these assets are protected in the event of solvency issues, whilst also ensuring that there is a title to land that could be mortgaged or charged, if required.

226. The opinion noted:

Obligations relating to infrastructure ownership, operation, and funding run with the land via registered covenants in favour of the Resident's Society, rather than relying on future consent conditions. As a result, the Society's responsibilities automatically expand as new stages are developed, without requiring jurisdiction over future consents or future entities.³⁵

227. We accept that conclusion. Additional matters were addressed in the later Alexander Dorrington memorandum of 4 August 2026 in response to comments on draft conditions.

Conclusion on Effects

228. Overall the Panel finds that the Project, with the suite of conditions to be imposed, will appropriately manage potential adverse effects such that those effects can be avoided or are otherwise considered to be less than minor in the context of land intended to be urbanised and taking into consideration those associated benefits. Furthermore, any residual effects are considered to be acceptable and will comply with the relevant standards via conditions.

I REGIONAL OR NATIONAL BENEFITS OF THE PROJECT

229. As has been noted above, s.81(4) FTAA specifically requires the Panel to consider the extent of the Project's regional or national benefits.

230. A principal issue that was in contention with the first application was the unsubstantiated benefits of the Project. On the information before it, the First Panel did not accept that the Project would deliver infrastructure and development with significant regional benefit³⁶ for reasons including, among other things, the lack of certainty about the availability of water services infrastructure to service the Project and thus ensure that the Project could be delivered. In such circumstances the First Panel concluded that in accordance with s.85 FTAA the RMA approvals should be declined.

231. The AEE supporting the Application states in relation to the benefits of the Project:

³⁵ Denise Marsden, Alexander Dorrington, 3 June 2026, at [2.8].

³⁶ First Draft Decision at [587].

It is considered that the proposal meets the purpose of the FTAA. The proposal will deliver a regionally significant increase in Auckland and the Hibiscus Coast's supply of housing, with the type of housing proposed responding directly to demand for stand alone, 'affordable' homes. Up to 1,213 dwellings are proposed to be delivered as part of this proposal. This project will deliver a significant portion of regionally significant roading infrastructure, as it will fund and deliver the portion of NoR6 which runs through the site and that will connect to the Grand Drive interchange with Wainui Road. The project will see ecological protection, restoration and enhancement through the retention, covenanting, planting, and pest plant management across an area of approximately 44ha, and the creation of new wetland environments. Restoration, enhancement, and re-creation of these types of ecological areas is a national priority (cl3.21 NSP-IB), and the overall ecological gains the proposal includes will make a significant contribution to responding to the significant environmental issues faced by the Auckland region (and the country more broadly) of biodiversity loss and, in doing so, support the development of Auckland natural indigenous vegetation resource). The proposal will have significant economic benefits for people and industries with an estimated contribution of \$304.2 million to Auckland's GDP, and will create approximately 2,290 full time equivalent jobs within the construction sector. These are all benefits falling with Section 22 of the FTAA (specifically 22(2)(a)(ii), (iii), (iv), (vi), (ix). The combination of roading, housing, economic and ecological benefits will make a regionally significant contribution to ensuring Auckland has a well-function urban environment. ³⁷

232. The Application included an economic analysis of the Project by NZIER which includes the amendments and further information made to the Application in response to some of the concerns raised by the First Panel and Council (see section B). Unlike the previous application, this economic analysis has taken a standard Cost-Benefit Analysis approach. The Cost-Benefit Analysis found that:
 - (a) the net benefit to the Auckland Region of the Application over the period 2026 to 2050 is \$1.23 billion; and
 - (b) the net benefit to New Zealand of the Application over the period 2026 to 2050 is \$1.21 billion.
233. In contrast, Council's assessment is that these alleged benefits are overstated and do not meet the significance thresholds required under the Act. To support this position, Council referred to the assessment of Mr James Stewart's Economic Review, where he expresses reservations about aspects of the methodology employed by NZIER, and which he categorises as significant. Such reservations include matters such as not clearly defining the counterfactual scenario when determining the benefits of the Project, so it was unclear what the changes were being measured against and the multiplier analysis being adopted several times in the analysis, which has the general effect of overstating the benefits and costs of the Project where it was applied.
234. In his view, those methodological flaws in the economic assessment undermine the credibility of the results presented in the Applicant's economic assessment, in particular the magnitude of the purported benefits and costs of the Project. Mr Stewart concludes:

³⁷ AEE, 23 December 2025, at [2.1.4].

*Overall, I am not convinced that the analysis in the report demonstrates that Delmore would result in a net benefit (benefits exceed costs) let alone whether it could be considered a regionally or nationally significant benefit.*³⁸

235. Relying on the economic analysis undertaken by Dr Richard Meade (on behalf of the First Panel) for the First Application, Mr Stewart noted that the corrected net present value of the consumer surplus less producer surplus of the Project would be equivalent to \$249.1 million. This, he notes, is substantially less than the net benefit of the Project claimed by the Applicant and is also likely overstated as he doubts that the Project's market is 100% of the regional market.
236. Council acknowledged in its comments that the Project will deliver net ecological and biodiversity benefits, relevant to the Panel's assessment of the benefits of the Project. Council does note, however, that there is a transport infrastructure deficit in both delivery and funding in relation to the provision of access to the site for Stage 1 which vitiates the benefits of the Project.
237. By way of reply, the Applicant provided a peer review of the economic analysis of the Project by NZIER that was undertaken by Fraser Colegrave of Insight Economics. The Insight Economics peer review concludes that:

...the Report provides a defensible evidential foundation for concluding that the Delmore development would deliver significant regional economic benefits for FTAA purposes.

This conclusion is subject to some differences in the methodological approach adopted by NZIER, but Insight Economics states that such differences do not alter its overall conclusion. Importantly, the peer review notes that: "

The construction of approximately 1,200 dwellings over a ten-year build programme is a substantial injection of activity into the regional economy".³⁹

238. Furthermore, Mr Colegrave comments:

It is worth noting that, even on the Council's own corrected figure (drawn from Dr Meade's analysis), the net present value of consumer surplus less producer surplus is approximately \$249 million, assuming Delmore represents 100% of the Auckland housing market. The Council presents this as damaging to our Report, but \$249 million in present value terms is itself a substantial and regionally significant benefit, before any other categories of benefits are counted".⁴⁰

239. As noted previously, s.22 of the FTAA, which provides a guide to what might be meant by 'significant regional or national benefits' under the Act, extends beyond the pure economic and includes a number of other non-economic matters that may result in a project having significant regional or national benefits, such as whether the Project is a priority project in a central or local government sector plan or strategy, will address significant environmental issues, or will promote competition in the grocery industry. That is, delivering significant economic benefits is only one of

³⁸ Auckland Council Response, Annexure 2: Economics, 4 May 2026 at [5].

³⁹ Appendix 8.02 (Economics): Insight Economics, Technical Memo, 22 May 2026, at pages 1 and 4.

⁴⁰ Appendix 8.02 (Economics): Insight Economics, Technical Memo, 22 May 2026, at page 6.

11 matters listed in section 22 that may be relevant to the Minister's determining that a project would have significant regional or national benefits. Of particular relevance to this Application is the inclusion in s.22 (2)(a)(iii) of whether or not a project will increase the supply of housing, address housing needs, or contribute to a well-functioning urban environment (within the meaning of Policy 1 of the NPS-UD).

240. The significance of a project's benefits, when considered at a regional level, is also contextual and will be dependent upon the region in which an application is made. Moreover, in this context '*significant*' does not need to be of a scale that 'solves a problem'. It can be, and usually is, akin to making a 'meaningful contribution to' a particular matter.
241. Having considered the Project it is clear to the Panel that the extent of the Project's benefits are regionally significant. A residential development of 1,213 dwellings, even when excluding attendant associated features such as the partial delivery of roading infrastructure (i.e. part of NoR6), the ecological enhancement of the Site, and associated economic activity, is worthy of note within the context of the Auckland Region. In that regard, the Project will clearly increase the supply of housing and in doing so address, in part, housing needs within the Auckland Region.
242. Further, in terms of economic benefits, the economic assessment for the Applicant concludes that the Project will result in significant net regional economic benefits. The economic assessment for Council, on the other hand, is limited to a peer review of the Applicant's assessment, and whilst on that basis Council's economist is not confident that the Project will represent a net economic benefit from a welfare perspective or that such benefits will be economically significant, an alternative economic assessment has not been provided to establish this. This limitation appears to be accepted by Council as stated:

*In undertaking that assessment exercise, we acknowledge the Panel will have discretion as to what weight to place on the evidence/information before it, including about the extent of the project's regional or national benefits...*⁴¹

243. As a final comment, the Applicant's economic report concludes that the Project also has significant national benefits. We have some doubts about that claim, but on questioning the Applicant it was confirmed that the Application's focus was on the significant regional benefits of the Project (Project Overview Conference). As such, there is no need for us to make a determination as to whether or not the Project has significant national benefits.

The Proportionality test

244. Where a Panel finds that a Project will cause adverse impacts it is required under s.85(3) of the Act to undertake a proportionality test so as to determine whether or not those adverse impacts are sufficiently significant so as to be out of proportion to a project's regional or national benefits. When undertaking this analysis, the Panel is

⁴¹ Memorandum of Planning Matters, 4 May 2026, at [6].

required to take into account any conditions that it may impose to avoid, remedy or mitigate those adverse impacts, and any conditions that the Applicant may agree to in order to avoid, remedy, mitigate, offset or compensate for those adverse impacts (s.85(3)(b)).

245. As noted above, the Panel has concluded that the Project's benefits are significant at a regional level. Having assessed the magnitude of the Project's benefits, the Panel must now weigh them against any adverse impacts that it has found will arise as a result of the Project.
246. With respect to the First Application, Council had disputed the Applicant's assertion that the Project would have significant regional benefits, arguing that the economic report included as part of the First Application had overstated the Project's benefits and had not properly weighed such benefits against the potential costs or adverse impacts generated by the Project. Both Council's economic expert and the independent economic expert engaged by the First Panel had been critical of the economic analysis provided in the First Application for not having undertaken such a cost-benefit analysis, so as to establish for the purposes of s.85(3) that the adverse impacts were not sufficiently significant so as to be out of proportion with the Project's regional benefits.
247. That more comprehensive assessment of the Project's benefits and costs has now been undertaken by the Applicant. Further, the majority of the potential adverse impacts of the Project for which the First Panel had concerns (which were broadly in relation to potential ecological impacts, transport effects and a lack of service infrastructure for the Project) have now been addressed by the Applicant through conditions.
248. The Applicant's economic report, prepared by NZIER, along with the peer review of Insight Economics, concludes that the Project will generate significantly more benefits at a regional level than economic costs. The Panel has also accepted a number of additional conditions to address the potential adverse impacts of the Project. As such, the Panel is satisfied that for the purposes of s.85(3) that the adverse impacts of the Project will not be sufficiently significant so as to be out of proportion with the Project's regional benefits.

J STATUTORY INSTRUMENTS.

National Policy Statements

249. The Application (Appendix 43) assessed the Project in terms of the following National Policy Statements:
 - (a) National Policy Statement on Urban Development 2020.
 - (b) National Policy Statement for Freshwater Management 2020.
 - (c) National Policy Statement for Indigenous Biodiversity 2023.

- (d) National Policy Statement for Natural Hazards 2025.

National Environment Standards

250. The Application (Appendix 42) assessed the Project in terms of the following National Environmental Standards:
- (a) National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 – Reg 5(7).
 - (b) National Environmental Standard for Freshwater 2020 – Regs 45C, 70 and 71.

Auckland Unitary Plan (AUP)

251. The Application (Appendix 43) assessed the Project in terms of the following parts of the Auckland Unitary Plan (Operative in Part):

- (a) Chapter B – Regional Policy Statement:
 - i. B2 Urban growth and form.
 - ii. B3 Infrastructure, transport and energy.
 - iii. B6 Mana Whenua.
 - iv. B7 Natural resources.
 - v. B10 Environmental risk.
- (b) Chapter E – Auckland Wide:
 - i. E1 Water quality and integrated management.
 - ii. E2 Water quantity, allocation and use.
 - iii. E3 Lakes, rivers, streams and wetlands.
 - iv. E6 Wastewater network management.
 - v. E8 Stormwater diversion and discharge.
 - vi. E9 Stormwater quality.
 - vii. E11 Land disturbance – Regional.
 - viii. E12 Land disturbance – District.
 - ix. E15 Vegetation management and biodiversity.
 - x. E25 Noise and vibration.
 - xi. E26 Infrastructure.
 - xii. E27 Transport.
 - xiii. E31 hazardous substances.
 - xiv. E36 Natural hazards and flooding.
 - xv. H18 Future Urban Zone.

For information purposes only:

- xvi. H4 Residential – Mixed Housing Zone.
- xvii. E38 Subdivision – Urban.

Other statutory documents

252. Council cited the following other statutory documents:

- (a) Auckland Future Development Strategy 2023-2053.
 - (b) Auckland Growth Scenario 2023.
253. The Panel accepts that the above are the relevant statutory planning instruments and provisions for present purposes.

K ASSESSMENT AGAINST THE PLANNING FRAMEWORK

254. The Applicant has submitted that the Project satisfies the planning framework because it:
- (a) provides a substantial number and range of dwelling typologies;
 - (b) is close to both developing and developed urban environments with links to commercial, retail and social infrastructure (albeit primarily off-site);
 - (c) will be well connected in transport terms and provides for both active and passive modes;
 - (d) provides private water and wastewater infrastructure so is “*infrastructure ready*” in the NPS-UD cl.3.4(3) sense;
 - (e) demonstrates its structural integration with the surrounding area through its Concept Plan; and
 - (f) while dwelling unit price points are not stated, the Applicant is confident that the Project will meet the needs of different households from a relative affordability point of view.
255. With respect to the NPS-UD’s key objectives, the Application relies upon its proximity to both existing and developing proximate urban areas in the upper Ōrewa / Wainui area for its conclusion that it would contribute to a well-functioning urban environment, in addition to being a comprehensively planned and integrated development.
256. The Council’s position, on the other hand, concluded that the Application does not accord with the applicable planning framework:
- (a) being an out-of-sequence proposal in terms of the AUP RPS urban growth provisions and the Auckland Future Development Strategy – and that accelerating this land has unaccounted for potential effects on other sequenced land and infrastructure in the general area of Silverdale / Ōrewa which depend upon realising timely demand to offset, transfer or otherwise recover costs;
 - (b) was not appropriate in that the land is and would remain a FUZ with an underlying suite of rural provisions – when the AUP expects the land to be live zoned to an urban activity zone as a pre-requisite to being urbanised;
 - (c) its transport infrastructure anticipates the full NoR6 connection, for which there is no dedicated funding allocated at this time; and

- (d) the Application would not contribute to the NPS-UD's Objective and Policy 1 expectation of a well-functioning urban environment because it is largely bereft of social infrastructure.
257. Westlake noted that the Application was being advanced ahead of and inconsistently with the NPS-UD required FDS and the RPS growth framework and considered that the Application was inconsistent with the current FUZ zoning (that is not intended to be changed through this process).
258. Westlake also noted that as the entirety of the Upper Ōrewa area had not been through the usual plan change processes, alternative mechanisms are needed that would achieve the same end. Westlake considered the following to be necessary (and sought conditions imposed by the Panel accordingly):
- (a) Identify how environmental constraints (particularly in relation to wastewater, stormwater, traffic) for the wider Upper Ōrewa area, including the Westlake Property, will be addressed.
 - (b) Ensure that infrastructure required to service the Project is not located, designed or operated to unfairly burden adjacent land.
 - (c) Ensure that infrastructure that is developed for the Site is future-proofed and has capacity to also service surrounding land (acknowledging that any future use would be subject to applicable Council processes at the relevant time).
 - (d) Ensure that land such as Westlake Property, that is anticipated to remain FUZ in the medium term, can continue to be used for rural land use in the interim, without such land uses being curtailed by incoming residential or other more sensitive land uses.

Discussion and Conclusion

259. Clause 17 of Schedule 5 FTAA directs us to take into account the purpose of the FTAA (giving that the greatest weight) and the provisions of Part 2, 3, 6 and 8-10 RMA (excluding s.104D).
260. Relevantly, of course, Part 6 RMA includes s.104 which directs the decision maker, subject to the Part 2 purpose and principles of the RMA, absent s.8⁴², to have regard to:
- (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) *any relevant provisions of—*
 - (i) *a national environmental standard:*
 - (ia) *a wastewater environmental performance standard:*
 - (ib) *a stormwater environmental performance standard:*

⁴² Clause 17(2)(a) FTAA "limits" the Part 2 consideration to sections 5, 6 and 7.

- (ic) *an infrastructure design solution:*
- (ii) *other regulations:*
- (iii) *a national policy statement:*
- (iv) *a New Zealand coastal policy statement:*
- (v) *a regional policy statement or proposed regional policy statement:*
- (vi) *a plan or proposed plan; and*
- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

261. We note that, unlike a district (or regional) plan for example, we are only required to “have regard to” the above relevant provisions – unless, of course, those planning instruments direct differently.

National Policy Statement - Urban Development

262. It was common ground that the NPS-UD is the most relevant higher order instrument in terms of this application, directing its attention to facilitating the provision of housing, business and infrastructure development and capacity – with which the purpose of the FTAA clearly accords.

263. Objective 2 of the NPS-UD requires the following:

Planning decisions improve housing affordability by supporting competitive land and development markets.

264. Objective 6 of the NPS-UD requires the following:

Local authority decisions on urban development that affect urban environments are:

- (a) *integrated with infrastructure planning and funding decisions; and*
- (b) *strategic over the medium term and long term; and*
- (c) *responsive, particularly in relation to proposals that would supply significant development capacity.*

265. Additionally, a number of the associated policies are directly relevant to decision making, including:

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

- (a) *have or enable a variety of homes that:*
 - (i) *meet the needs, in terms of type, price, and location, of different households; and*
 - (ii) *enable Māori to express their cultural traditions and norms; and*
- (b) *be or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) *have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*
- (d) *support reductions in greenhouse gas emissions; and*
- (e) *are resilient to the likely current and future effects of climate change.*

and

Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

- (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement;*
- (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes;*
- (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);*
- (d) any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity;*
- (e) the likely current and future effects of climate change.*

266. Whilst it is not entirely clear what Policy 6 intended by referring to “urban built form”, in our experience that has typically been interpreted as referring to the zoning character – i.e. residential, commercial/retail or industrial for example.

267. In the present case, the zoning is Future Urban undefined – the definition being anticipated by means of a plan change, as signalled by Policy 6(a) and further as we discuss below.

Policy 8: Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

- (a) unanticipated by RMA planning documents; or*
- (b) out-of-sequence with planned land release.*

268. Importantly, Policy 8 relates only to plan changes and not to resource consent applications.

269. While Council expressed reservations as to whether the Project integrates well with infrastructure and contributes to a well-functioning urban environment as far as the provision of parks, access to public transport, and facilities such as schools are concerned, it took that concern no further.⁴³ Those concerns were also expressed by commenters such as Jon Mason and Janet Mathewson and Westlake.

270. The Applicant disagreed, noting that the matter of wider social infrastructure was addressed in its AEE and appendices; was not a matter raised by Council’s urban design team; included 2 parks and a small commercial centre (located and designed with input from Council) as well as an extensive green walking network; and multiple connection points to the external road network allowing for pedestrian, cycling, public and private transport access.⁴⁴

271. While it is possible to argue about the point at which a proposal crosses the threshold of a well-functioning urban environment, the Panel is satisfied that the Applicant has both had regard to the NPS-UD and that the Project would contribute to a well-functioning urban environment in the context of the FTAA. Further, we note

⁴³ Austin Fox, Auckland Council Response, Annexure 4: Policy, 4 May 2026 at [17]-[19].

⁴⁴ Appendix 8:A04 (Policy) to Response to Comments Letter, 5 June 2026.

that we find that a minimum of 2 parks will be required regardless of whether one or both vest in Council.

Other National Instruments

272. The Application reviewed a number of other national instruments that are relevant,⁴⁵ including:
- National Policy Statement for Freshwater Management 2020;
 - National Policy Statement for Indigenous Biodiversity 2023;
 - National Policy Statement for Natural Hazards 2025; and
 - National Policy Statement for Infrastructure 2025.
273. The Applicant concluded that with the conditions proposed the Project was consistent with those provisions.
274. In the context of land zoned FUZ and the purpose of the FTAA, the Panel accepts that conclusion noting that no expert planning response contradicted that conclusion – other than Council in regard to the AUP - which we discuss next.

Auckland Regional Policy Statement – Chapters B & H18 AUP

275. A key matter of disagreement between the Applicant and Council concerned their respective interpretations as to what was required by (and the weight to be accorded) RPS B2.2 Urban Growth and Form – and particularly policies B2.2.2(3), (7) and (8), which state:
- (3) *Enable rezoning of future urban zoned land for urbanisation following structure planning and plan change processes in accordance with Appendix 1 Structure plan guideline.*
 - (7) *Enable rezoning of land within the Rural Urban Boundary or other land zoned future urban to accommodate urban growth in ways that do all of the following:*
 - (a) *support a quality compact urban form;*
 - (b) *provide for a range of housing types and employment choices for the area;*
 - (c) *integrate with the provision of infrastructure; and*
 - (d) *follow the structure plan guidelines as set out in Appendix 1.*
 - (8) *Enable the use of land zoned future urban within the Rural Urban Boundary or other land zoned future urban for rural activities until urban zonings are applied, provided that the subdivision, use and development does not hinder or prevent the future urban use of the land.*
276. Council's position⁴⁶, consistent with the zone description, is that the FUZ is a transitional zone that, with some flexibility for land development of a minor nature and scale or that are genuine on-the-merits exceptions, requires a formal plan change process to determine its live urban zones and activities – and that addresses

⁴⁵ AEE Section 12- Assessment of Relevant Statutory Considerations, and Appendix 33: Objectives and Policies Assessment.

⁴⁶ See, for example, Austin Fox, Auckland Council Response, Annexure 4: Policy, 4 May 2026

the matters articulated in Appendix 1. As the FUZ zone description (H18.1) plainly states:

The Future Urban Zone is applied to greenfield land that has been identified as suitable for urbanisation. The Future Urban Zone is a transitional zone. Land may be used for a range of general rural activities but cannot be used for urban activities until the site is rezoned for urban purposes.

This is reinforced by Objective H18.2(4) which states:

Urbanisation on sites zoned Future Urban Zone is avoided until the sites have been rezoned for urban purposes.

277. It then explicitly refers to Chapter B of the RPS and Appendix 1.

278. Appendix 1 to the RPS sets out the Structure Plan guidelines and, as stated, forms part of the RPS. Importantly it notes at 1.2 that:

The regional policy statement promotes the preparation of structure plans as a precursor to plan changes and to support any of the following:

...

(3) *rezoning of Future Urban Zone land for urbanisation;*

279. The introduction states that:

Structure plans are an important method for establishing the pattern of land use and the transport and services network within a defined area. They can provide a detailed examination of the opportunities and constraints relating to the land including its suitability for various activities, infrastructure provision, geotechnical issues and natural hazards.

280. Appendix 1 identifies the external documents that are to be taken into account (1.3); the matters that are to be identified, investigated and addressed (1.4); and the specialist documents required to support the structure plan and plan change process (1.5).

281. Council contends that this provides a very strong direction to avoid the urbanisation of FUZ areas, certainly at scale, unless and until a plan change process is completed. That interpretation is supported, it says, by reference to the H18.3 FUZ policies themselves, which include:

(3) *Require subdivision, use and development to maintain and complement rural character and amenity.*

...

(6) *Avoid subdivision, use and development of land that may result in one or more of the following:*

(a) *structures and buildings of a scale and form that will hinder or prevent future urban development;*

(b) *compromise the efficient and effective operation of the local and wider transport network;*

- (c) *require significant upgrades, provisions or extension to the wastewater, water supply, or stormwater networks or other infrastructure;*
- (d) *inhibit the efficient provision of infrastructure;*
- (e) *give rise to reverse sensitivity effects when urban development occurs;*
- (f) *give rise to reverse sensitivity effects in relation to existing rural activities or infrastructure; or*
- (g) *undermine the form or nature of future urban development,*

noting that the policy is engaged at a low threshold – which is crossed if *one* of the listed outcomes *may* result.

282. In summary, Council’s view is that the Project is contrary to multiple FUZ objectives and policies as it represents urban development before rezoning, fails to retain rural activities and directly contradicts Policy H18.3.(6) which uses the strong directive to ‘avoid’ the type of activities proposed by the Application.⁴⁷
283. In support of this interpretative approach, the Council referred to the High Court case of *Auckland Council v Matvin Group Limited* [2023] NZHC 4281 (**Matvin**). In *Matvin* the High Court found that the overall purpose of the FUZ:
- ... is as a holding zone and to provide a transition from rural to urban use and development. There is no provision specifically allowing urban development. The zone recognises the need for comprehensive and intentional design for soon-to-be-urban areas. Until rezoned urban, the primary set of activities that are to occur in the FUZ are rural.*⁴⁸
- On that basis, the High Court held that a panel established under the COVID-19 Recovery (Fast-Track Consenting) Act 2020 erred in finding that the overall purpose of the FUZ was to preclude activities that may compromise future urban development.
284. Against this background, and by way of RFI 1, the Panel sought further comment from the Applicant and Council on the way the approach in *Matvin* to interpretation of the FUZ provisions, and planning provisions more generally, might have been altered by later decisions of the Supreme Court in *Royal Forest and Bird Protection Society of New Zealand Inc v Waka Kotahi New Zealand Transport Agency* [2023] NZSC 26 (**East-West Link**) and the Court of Appeal in *Glenpanel Development Limited v Expert Consenting Panel* [2025] NZCA 154 (**Glenpanel**).
285. The Applicant’s Response to Comments and RFI Response asserts that the interpretative approach to the FUZ provisions adopted by the High Court in *Matvin* is not binding on the Panel because the decision-making framework for the Covid-19 Recovery (Fast-track Consenting) Act 2020 is fundamentally different from that of the FTAA.

⁴⁷ Memorandum of Planning Matters for Auckland Council, 4 May 2026, at [35].

⁴⁸ *Auckland Council v Matvin Group Limited* [2023] NZHC 4281 at [38].

286. The Applicant also submitted that the *East-West Link* and *Glenpanel* decisions provide a more nuanced approach to interpretation of objectives and policies than *Matvin*. On that point we agree. Regarding the nature of the assessment required by both s104D and s104 of the RMA, the Supreme Court majority found that “*the relevant policies must be read ‘as a whole’ in order to get the true intent of the drafter*” and that requires “*a fair appraisal of the objectives and policies read as a whole...isolating and de-contextualising individual provisions in a manner that does not fairly reflect the broad intent of the drafters must be avoided.*”⁴⁹
287. Apposite to both the Applicant and Council position that on-the-merits exceptions are permissible are the following statements by the Supreme Court majority:
- [101] The interpretive approach required here must reconcile the fact that policies mean what they say with the fact that they are still policies. A residual discretion to prevent outcomes plainly inconsistent with the purpose of the RMA must be preserved in order to ensure that, when applied to difficult cases, the policies do not subvert that purpose. Seen this way, recognising a residual discretion will ensure the policy will not be implemented unlawfully.*
288. And later in the decision:
- [109] ...a genuine, on-the-merits exception, by its nature will not subvert a general policy, even a directive one. On the contrary true exceptions can protect the integrity of the subject policy from the corrosive effect of anomalous or unintended outcomes...*
- [110] ... but ‘avoid’ does not exclude a margin for necessary exceptions where, in the factual context, relevant policies are not subverted and sustainable management clearly demands it.*
289. The Applicant thus argues that *Glenpanel* further supports the conclusion that the Project constitutes a genuine on-the-merits exception. In that decision the Court of Appeal found that a panel deciding an application for a residential development under the Covid-19 Recovery (Fast-track Consenting) Act 2020 had erred in dismissing the application because of the wording of the Proposed District Plan provisions, without taking into account whether or not the intentions in the wider instruments meant that the application could be granted as an exception that gave effect to the broader intentions.
290. The Applicant, in its RFI 1 response, referred to the following passages from the *Glenpanel* decision in support of its argument that the purpose of the FTAA should have some bearing on the interpretative approach adopted:
- [43] ...The very purpose of the Act was to ‘fast track’ projects that would otherwise take a longer time to be consented under the conventional RMA approach. We consider that the regime encompasses bringing forward projects that would otherwise likely be granted under the RMA in the future....*
- [44] It is the combined effect of the approach in East West Link and the policy of the Act that is most significant in this case. The fact that this area had been identified as a likely location for*

⁴⁹ *Royal Forest and Bird Protection Society of New Zealand Inc v Waka Kotahi New Zealand Transport Agency* [2023] NZSC 26, at [63] and [79].

future urbanisation in response to the NPS-UD, and the fact the Act promotes the fast tracking of projects, means the Panel should have considered whether granting the application facilitated the purposes of the Act, the objectives of the NPS-UD, and the objectives identified in the other instruments, whilst at the same time promoting sustainable management in the manner contemplated by the Proposed District Plan.... Rather, the Panel concluded that the plain wording of the provisions of the Proposed District Plan prevented the application from being granted because urbanisation of this area was planned for a later time.

291. In summary, the Applicant contends that having designed and conditioned its development to be consistent with the Residential - Mixed Housing Suburban Zone provisions, which it submits is the most likely urban zone in this location, and provided a Concept Structure Plan (Appendix 14) demonstrating how its development would integrate with the surrounding FUZ land and general Upper Ōrewa area and support a well-functioning urban environment, those expectations were effectively met in spirit if not in kind.
292. The Applicant, in its RFI 1 response, also drew attention to the 139 page assessment of the relevant AUP plan objectives and policies provided in Appendix 43 to the AEE, including the specifics of policy H18.3(6), which effects, the Applicant says, do not arise and therefore do not need to be avoided. She also noted the Applicant's s.55 FTAA planning response provided in direct response to the Council's policy position – Appendix 8: A04 (which cross-references a number of other documents provided).
293. On the basis of that analysis, and in light of the purpose of the FTAA, the Applicant submitted that the Project is a genuine on-the-merits exception.
294. In response Counsel for Council submitted (among other things) that:

[3.31] ...East-West Link requires a fair appraisal of the relevant objectives and policies read as a whole. But that does not dilute the directive language used in H18....

[3.32] East-West Link also recognises that a genuine, on-the-merits exception may be available in an appropriate case. But that is a narrow proposition. A true exception must not subvert the policy. The more precise and sharp-edged the policy, the less room there will be for such an exception.⁵⁰
295. However, Council cautioned:

[3.44] ... the Panel may read the FUZ provisions purposively and as a whole. But, consistently with the Legislation Act, that reading informs the text rather than displacing it. It does not allow, for example, objective H18.2(4) to be treated as satisfied merely because ad hoc or compromising development is said to be avoided.
296. Council's planning conclusion remained that the Application is contrary the AUP, not merely inconsistent with it.

⁵⁰ Matthew Allan, Memorandum of Counsel for Auckland Council, 26 June 2026.

Discussion and Conclusion

297. When it comes to live zoning significant areas of land, structure planning is not just prudent, it is best practice for the purpose of ensuring that key elements of the land and its multiple values, both existing and intended, are addressed. An important component of that exercise is to allow and ensure that the interests of all relevant parties are identified and considered through the plan making and determining process – especially required public and private infrastructure and their internal and external connections. That much is hardly controversial – and is what the AUP RPS and zone provisions require.
298. The question for the Panel is threefold:
- (a) whether the Project offends the RPS avoidance pre-requisite; and, if so:
 - (b) is the Project sufficiently aligned as to constitute a genuine, on-the-merits exception; and
 - (c) the weight to be accorded that matter in that, absent significant adverse impacts (if so found), s.85(4) of the FTAA clearly ‘permits’ either inconsistency or contrariness with such provisions; cl.17(1)(b) of Schedule 5 of the FTAA excludes s.104D of the RMA and, relevantly, its s.104D(1)(b) gateway test; and cl.17(4) of the FTAA sets aside any provisions that might otherwise require a consent to be declined.
299. On the first question, and for the record, we find that the Project is patently contrary the urban growth and form objectives and policies of the AUP which, we note, are among the strongest and most directive provisions in the AUP. In short, it urbanises a significant area of rural zoned land without a plan change transitioning its FUZ status into a live urban zone. Its structure plan has no status other than as a concept. There has been limited opportunity for wider public submission. It is “out of sequence” of the growth and land release strategies. To argue otherwise borders on sophistry.
300. On the second question we find that, largely for the reasons summarised in the Applicant’s RFI 1 submissions⁵¹, it is sufficiently aligned with the AUP in its FTAA context - but for the reasons set out below in response to the third question, and having found that there are no adverse impacts that are sufficiently significant to be out of proportion to the Project’s regional or national benefits such that decline is warranted, it is unnecessary for the Panel to make a determination on whether or not the Project is an ‘on-the-merits’ exception.
301. With respect to the third question, we simply note that s.85(4) precludes the Panel declining approval solely on the basis of an adverse impact by virtue of inconsistency or contrariness with provisions of a planning instrument. We also have some doubts as to the correctness of the Applicant’s argument that the decision-making framework of the FTAA warrants a different approach to the interpretation of

⁵¹ Memorandum of Counsel, 25 June 2026, at [2.35]-[2.36].

planning provisions from the RMA or the previous fast-tracking regime, particularly as s.85(4) is part of the legislative schema.

L CONDITIONS

302. Section 83 of the FTAA provides that when exercising a discretion to set a condition under this Act, the Panel must not set a condition that is more onerous than necessary to address the reason for which it is set, in accordance with the provision of the Act that confers the discretion.

Resource consent conditions

303. With respect to resource consents, cl.18 of Schedule 5 is the relevant provision. It provides:

Conditions on resource consent

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:

- (a) a reference to a consent authority must be read as a reference to a panel;
and*
 - (b) a reference to services or works must be read as a reference to any activities that are the subject of the consent application.*
304. The general position regarding the imposition of conditions is that set out in *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 73, which is to be valid a resource consent condition must:
- (a) be for a resource management purpose and not for any ulterior purpose;
 - (b) fairly and reasonably relate to the proposal which is the subject of the consent;
and
 - (c) not be so unreasonable that no reasonable consent authority could have approved it.
305. Relevant also to the Application, as noted above, is the requirement that a condition not involve an unlawful delegation of the consent authority's duties.
306. Also apposite to the Application is the recent amendment to the FTAA which adds a further section relating to infrastructure conditions. That section provides:

84A Conditions relating to infrastructure

- (1) The panel may set conditions to ensure that the infrastructure in the project area or other infrastructure the project will rely on is or can be made adequate to support —
 - (a) the project; or*
 - (b) the stage of the project to which the application relates.**
- (2) This section applies in addition to, and does not limit, any other powers to set conditions under this Act.*
- (3) To avoid doubt, a condition set under this section may impose an obligation on the applicant only.*

307. The Departmental Report for the Fast-Track Approvals Amendment Bill suggests that the policy intent of this new section was to allow for conditions to be imposed to facilitate the provision of future infrastructure, by allowing an applicant and the relevant local authority or infrastructure provider to negotiate an agreement at a later date i.e. after the approval under the FTAA had been granted.
308. However, as noted by the Applicant in its response to comments, it is arguable whether or not this section as drafted affords the Panel with any greater power with respect to the imposition of conditions than already existed.⁵² That is, the Panel is able to impose a condition or conditions which ensure that the Project has adequate infrastructure servicing, and this includes the ability to impose a condition which defers the implementation of part of the consent until such time as the necessary infrastructure services for the Project are provided. In that regard, this new section does not change the position that adequate infrastructure servicing of the Project remains a valid consideration for the Panel.
309. As the Applicant notes in its comments⁵³, s.84A states that a Panel may set conditions to ensure that infrastructure 'is' or 'can be made' adequate to support the Project. The Applicant further notes that this wording envisages circumstances in which, variously:
- (a) Infrastructure capacity is present at the time the Application is assessed (i.e. 'infrastructure... is adequate to support the Project');
 - (b) Infrastructure capacity is expected to be in place by the time the Project or the relevant stage of it is implemented (i.e. 'infrastructure [will be made] adequate to support the Project'); or
 - (c) The Applicant identifies that there are non-fanciful and feasible methods by which the infrastructure capacity can be implemented to enable the Project or relevant stage to occur (i.e. 'infrastructure...can be made adequate to support the Project").
310. With respect to the Project, WSL has advised that there is no ability to service the Project before 2050 and states that the establishment of a permanent private waste water system is therefore required. It further notes that interim private systems can be difficult or impossible to integrate into the public network and often become permanent by default.

However, due to the complexity of connecting 1,213 individually owned dwellings to the public network some 25 years in the future, including vesting of private assets that have been operational, managed and maintained outside of Watercare's control, future connections to the public networks may not be feasible and cannot be committed to now. Given this considerable uncertainty, it would be prudent for the Applicant to assume that private water and wastewater servicing will be required on an ongoing basis. That is, the interim solutions cannot rely on a

⁵² Response to RFI 1, Attachment 1, Ellis Gould, 25 June 2026.

⁵³ Appendix 1, Ellis Gould letter, 5 June 2026.

*future connection to the public networks and should be designed and consented to be able to continue for an indefinite period of time without needing to switch to public servicing.*⁵⁴

311. It asks that the Panel proceed on the basis that public connection will not be available for the Project and requests that the conditions relating to future public servicing connections be removed.⁵⁵
312. We agree with the Applicant⁵⁶ that the FTAA, read in conjunction with the High Court's observations in *Ngāti Kuku Hapu Trust v EPA* [2025] NZHC 2453, means that it is available to the Panel to approve the Project as long as infrastructure provision is both realistic and deliverable in principle, even if the timing, funding or mechanisms remain to be finalised post-approval. In that regard, the Applicant refers to the Pound Road Industrial Development Expert Panel Decision, where it was stated:
- [192] ... In that light, the word 'ensure' can properly be read as requiring us to be 'certain' or satisfied that there is a credible infrastructure solution available. It does not require certainty that the relevant infrastructure will be in place at the time we make our decision.*
313. In this instance the Applicant has not sought approval for the on-site wastewater treatment and disposal system required to support Stage 2 of the Project. Rather the AEE supporting the Application notes:
- 7.6.2.2 ... It is proposed that wastewater for Stage 2 would be managed via the WWTP and the infrastructure at the WWTP is designed so that it could be scaled up to cater for the full development, including 1,213 dwellings. Treated wastewater cannot be discharged on-site in Stage 2 because of the nature of the on-site waterways. Therefore, prior to occupation of dwellings within Stage 2, resource consent must be obtained for off-site discharge. This is considered an appropriate solution, considering that occupation of dwellings in Stage 2 would be at least 6 years away which will provide the applicant sufficient time to source and consent an off-site solution.*
314. As previously noted, the Applicant offers a precedent condition hold point requiring that prior to the issue of section 224(c) certification for any lots within Stage 2, the Consent Holder must either obtain all necessary approvals and resource consents for Stage 2 wastewater treatment and disposal or provide a connection to the public wastewater network if that is available at that time.
315. By way of Minute 2 the Panel sought further information regarding the Stage 2 wastewater treatment system in order to satisfy itself that such a system would be realistic and deliverable in principle. In response, the Applicant commented on the extent to which the Panel must be satisfied that wastewater treatment options could reasonably be approved, arguing that the test was whether or not there were feasible or non-fanciful methods for treating and disposing of wastewater for Stage 2 of the Project.⁵⁷ In that regard the Applicant noted:

⁵⁴ Watercare, s.53 Comments, 23 April 2026, at [42].

⁵⁵ Memorandum of Planning Matters for Auckland Council, 4 May 2026, at [100].

⁵⁶ S.55 Response, Appendix 1, Attachment 1: Infrastructure Legal Memorandum, Ellis Gould, 5 June 2026.

⁵⁷ S.55 Response, Appendix 1, Attachment 1: Infrastructure Legal Memorandum, Ellis Gould, 5 June 2026.

- (a) Evidence has been provided of the technical ability to up-size the Stage 1 wastewater treatment plant to accommodate Stage 2;
 - (b) Several options exist for disposal of Stage 2 flows, being disposal to land off-site and disposal to land on-site; and
 - (c) Evidence has been provided of on-site wastewater treatment plants being employed for similar developments.
316. Second, with respect to the potential adverse effects arising from these wastewater treatment options, the Applicant noted that the adverse effects are well recognised and include surface and ground water contamination, effects on terrestrial vegetation of disposal to vegetated areas, odour and air quality, storage of hazardous substances (public health), and geotechnical engineering. Such adverse effects, the Applicant contends, can be addressed through design and conditions of consent.
317. The Applicant goes on to state that in any case, its opinion is that s.84A of the FTAA does not require the Panel to go so far as to carry out an assessment of the effects that might arise in the context of future resource consent applications. We disagree that no assessment is required, as such an inquiry is necessary in order to answer the question of whether or not there are feasible or non-fanciful methods for treating and disposing of wastewater for the Project under s.84A. We agree, however, that such an assessment would not be to the same extent as that required under the RMA when consenting an activity.
318. As such, the Panel considers that the Applicant has presented a private wastewater infrastructure option for Stage 2 of the Project such that it can be satisfied that such an infrastructure solution will be realistic and deliverable, or to use the Applicant's language 'feasible or non-fanciful' in principle. In addition, the Panel understands that subsequent discussions between the Applicant and WSL indicate that public connection may be technically achievable.
319. The set of draft conditions proposed by the Applicant were developed around a skeletal framework of 25 Management Plans covering the following thematic activities:
- (a) Construction Management Plan (CMP) – Condition 14;
 - (b) Erosion and Sediment Control Plan (ESCP) – Condition 15 & 122;
 - (c) Construction Air Quality Management Plan (CAQMP) – Condition 18;
 - (d) Construction Traffic Management Plan (CTMP) – Condition 17;
 - (e) Construction Noise and Vibration Management Plan (CNVMP) – Condition 19;
 - (f) Chemical Treatment Plan (ChTMP) – Condition 20;
 - (g) Tree Management Plan (TMP) – Condition 27;
 - (h) Fauna Management Plan (FMP) – Condition 28;
 - (i) Adaptive Management Plan (AMP) – Condition 21;
 - (j) Settlement Monitoring Plan (SeMP) – Condition 44;
 - (k) Wastewater Management Plan (WMP) – Condition 60;

- (l) Wastewater Tankering Management Plan – Condition 68;
 - (m) Landscape Plans – Condition 74;
 - (n) Implementation and Maintenance Plan – Condition 78;
 - (o) Lighting Plan – Condition 102;
 - (p) Counterfort Drain Operation and Maintenance Plan – Condition 107;
 - (q) Stormwater Operation and Maintenance Plan – Condition 109;
 - (r) Waste Management Plan – Condition 111;
 - (s) Stream Works Management Plan (SWMP) – Condition 166;
 - (t) Native Fish Capture and Relocation Plan (NFCRP) – Condition 169;
 - (u) Fish Passage Monitoring and Maintenance Plan (FPMMP) – Condition 177;
 - (v) Groundwater and Settlement Monitoring and Contingency Plan (GSMCP) - Condition 181;
 - (w) Operation and Maintenance Plan (OMP) - Stormwater Management Devices – Condition 204;
 - (x) Odour Management Plan (OMP) – Condition 245; and
 - (y) Archaeological Management Plan – Condition 258.
320. It was therefore of considerable concern to the Panel that those management plans be sufficiently well described and articulated to avoid dispute when it comes to certifying and, as necessary, enforcing their requirements. Minute 3 directed further consideration by the Applicant and Council of the draft conditions and associated material and a largely agreed set of conditions was produced.
321. Through the Expert Panel's Minute 5 on 14 July 2026 comments on draft conditions were invited as required by s.70 FTAA and from specified Ministers on the draft decision and conditions under s.72 FTAA. Responses were required by 28 July 2026, at which time replies had been received from those identified in **Appendix 5**.
322. The Applicant's response to the comments received on draft conditions was received on 4 August 2026 and included:
- (a) a further legal memorandum from Alexander Dorrington responding to the asset management plan and bond / sinking fund matters raised⁵⁸;
 - (b) three further memoranda from McKenzie & Co responding to the water supply, flood hazard and third party servicing matters raised⁵⁹; and
 - (c) a 4 August 2026 email from Shaun Baker, NZTA, confirming agreement on the Culvert Management and Monitoring Plan condition.
323. In the interest of brevity we do not repeat the Applicant's comprehensive tabulated responses but refer the reader to that document⁶⁰. That document, and the updated set of conditions attached to it, accepts many of the amendments sought by commenters, and explains its reasons for not accepting others. It addresses the

⁵⁸ Denise Marsden, Alexander Dorrington, Response to Westlake Trustee Limited, 4 August 2026.

⁵⁹ McKenzie & CO, 3 Responses to Section 70 Comments – Westlake Trustee Limited, 4 August 2026.

⁶⁰ Applicant comments on draft conditions under Section 70(4) of the FTAA, 4 August 2026.

particular civil engineering questions and suggestions helpfully made by Mr John Gardiner on behalf of Westlake Trustee Limited.⁶¹

- 324. Having carefully considered the Applicant's responses to all matters suggested in the comments on conditions received and the amendments to conditions proposed, the Expert Panel is satisfied that those matters are properly addressed and the amendments now proposed are appropriate.
- 325. As noted above, HNZ accepted the Applicant's proposed conditions relating to the archaeological authority and qualified person and we have simply adopted those in approving the HNZPTA consent without further amendment.
- 326. The Consent Notice changes sought (to CN 10576706.2, 6079871.2 and 7405348.2) simply add the phrase "*unless authorised by BUN60460972*" to each chapeau as shown in **Attachment 3**. We accept and adopt those essentially administrative changes.
- 327. The Panel is satisfied that the proposed conditions comply with the legal requirements discussed above and that they are appropriate to mitigate and manage the adverse impacts/effects of the Project. The Panel further notes that to the extent that the final set of conditions includes minor errors, it has powers under s.89 of the FTAA to make minor corrections.

M OVERALL ASSESSMENT

- 328. As noted above in Section C, clause 17 of Schedule 5 sets out how the Application is to be assessed in terms of the RMA. Specifically, clause 17(1) sets out the weighting to be applied to various matters that a panel must take into account when considering an application, the greatest weight being given to the purpose of the FTAA, which is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.
- 329. As such, if the Panel finds, as it has done in this instance, that the Application achieves the purpose of the Act, that matter will be determinative notwithstanding a finding of potential adverse impacts, unless the Panel must decline the Application under s.85(1) and (2), or finds that the potential adverse impacts of the Project are sufficiently significant to be out of proportion to the Project's regional or national benefits. As noted in Section I, the Panel does not consider that this threshold is met.
- 330. The provisions of RMA of relevance to the assessment of the Application are Part 2 (excluding s.8) and various matters under s.104. With regards to Part 2, the Applicant contends that the Project is consistent with sustainable management as defined by the RMA, along with the relevant sections of Part 2. The Council in its comments does not raise specific issue with the Project's ability to achieve the provisions of Part 2 of the RMA.

⁶¹ Beresford Law / Westlake Trustee Limited - Technical Memorandum, 27 July 2026.

331. Noting that even failure of the Project to achieve the purpose of the RMA would not be sufficient, on its own, to displace the weight to be given to the purpose of the FTAA, the Panel has found that the Project is consistent with Part 2 of the RMA.
332. With respect to s.104 matters, as noted in Section J, the Panel has found that the Project is not consistent with all of the objectives and policies of the relevant regional and district planning provisions. The Panel notes, however, the statutory directive in s.85(4) which states that a panel may not form the view that an adverse impact meets the threshold of the proportionality test on the basis that the adverse impacts is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with s.81(2). The Panel has found that the potential adverse impacts of the Project are not sufficiently significant so as to be out of proportion to the Project's regional benefits.
333. With respect to the heritage approvals sought, the Panel notes that the Applicant's AEE records that the archaeological values of the Site are low, but nevertheless the Application has sought to ensure that these values are protected in that the Project will avoid the identified archaeological sites and that the authority to modify or destroy will have conditions relating to appropriate procedures in the event that additional sites are encountered.
334. HNZPT has further advised the Panel that it considers that the relevant provisions of Schedule 5 of the FTAA are met and that the Application for an archaeological authority (with the amended Applicant agreed conditions) should be granted.
335. As such, and taking into account the matters listed in cl.4 of Schedule 5 of the FTAA, the Panel is satisfied that an approval for archaeological authority for the Project should be granted.

N FINAL DECISION

336. The Panel has considered the Application and attendant supporting information and reports, the comments received on the Application and the draft conditions and all other further information. The Panel thanks all those who commented on the Application for their contribution, and for the helpful manner in which the Applicant and their advisors conducted themselves during this process.
337. Overall, and for the reasons set out in this Decision, the Panel is satisfied that the matters set out in s.81 of the FTAA have been addressed appropriately and that the purpose of the FTAA has been achieved. The Panel is also satisfied that there are no adverse impacts of such significance as to be out of proportion to the Project's regional benefits, and as such there is no basis for the Application to be declined.
338. The Panel has therefore determined to grant the approvals sought subject to the Conditions attached as **Appendix 1** to the Decision.

339. As required by s.99 of the FTAA, any of the persons listed in ss.(1) of that section may appeal to the High Court against the whole or a part of this Decision, but only on a question of law. Under s.100 (1) any appeals must be commenced within the 20 working day period from the date this Decision is published in accordance with s.88(3).



David Hill
Chair



Dr Claire Kirman
Member



Michael Parsonson
Member

APPENDIX 1: CONDITIONS OF CONSENT

APPENDIX 2: CONSENT NOTICE CHANGES

CONSENT NOTICE: 10576706.2

Pursuant to Section 221 of the Resource Management Act 1991 THE AUCKLAND COUNCIL HEREBY GIVES NOTICE that its subdivision consent given in respect of the land in the Second Schedule as shown on Land Transfer Plan 497022 is conditional inter alia upon the compliance on a continuing basis by the Subdivider and the subsequent owners of the land in the Third Schedule hereto with the conditions set forth in the First Schedule hereto unless authorised by BUN60460972.

FIRST SCHEDULE

Protection of wetland area The wetland and buffer area labelled W, X and Y shall be protected in perpetuity to the satisfaction of the council's Team Leader Northern Monitoring.

Maintenance of wetland and additional planting area The owners or their successors in title of Lot 2 shall:

- Preserve the native vegetation, wildlife habitats and the natural landscape within the areas of wetland and buffer area riparian margins to be protected on Lot 2.
- Maintain any stock crossings and/or fish passage(s) in accordance with any easement(s) through the covenant areas;
- Not (without the prior written consent of the council and then only in strict compliance with any conditions imposed by the council) cut down, damage or destroy, or permit the cutting down, damage or destruction of the vegetation or wildlife habitats within the area to be protected;
- Not do anything that would prejudice the health or ecological value of the area to be protected, their long term viability and/or sustainability;
- Control all invasive plants and control pest animals within the areas of wetland and buffer to be protected, in accordance with but not limited to the approved Plant and Animal pest Management Plan by Wetland Solutions and dated 09/2014.

Advice Note: *Weed Control means, that there are no mature, fruiting and / or flowering individuals of weed species present within the covenant area and any weed species present are dead. In addition there shall be no areas where weed species are smothering and / or out competing native vegetation including suppressing the natural regeneration processes. Control shall be demonstrated to the satisfaction of council's Team Leader,*

Northern Monitoring or similar position.

- Maintain a stock-proof fence and other fencing as approved by the council around the perimeter of the wetland and buffer area to be protected on Lot 2 (Areas W, X and Y,) and keep stock out of these areas.
- Not to be in breach of this covenant if any of the areas of wetland and buffer to be protected die as a result of fire and/or natural causes not attributable to any act or default on their part for which they are not responsible.

Building restrictions Any buildings erected on the building sites identified on the plan prepared by C & R Surveyors, reference 4305, dated August 2016, shall be subject to the requirements of the report prepared by Geoconsult, reference GF647, dated 16 July 2014, or any subsequent geotechnical reports prepared. Copies of the said plan and report(s) will be held at the offices of the Council, Centreway Road, Orewa.

Limit on impermeable area The maximum impermeable area on Lot 1 shall not exceed 250 square meters, excluding driveway, unless a specific design for stormwater disposal is prepared by a Chartered Professional Engineer in terms of the requirements of the document "Management of Stormwater in Countryside Living (Rural and Town) Zones - A Toolbox of Methods" and approved in writing by the

Consents Engineer. Copies of the said report and document are held at the offices of the Council, Centreway Road, Orewa.

Building restrictions Any buildings erected on Lot 1 shall be subject to a minimum habitable floor level not lower than RL 21.50 m, DoSLI Datum.

SECOND SCHEDULE

An estate in fee simple being Lot 2 DP 397356 comprised in Certificate of Title 388618.

THIRD SCHEDULE

CONSENT NOTICE: 6079871.2

Pursuant to Section 221 of the Resource Management Act 1991 THE RODNEY DISTRICT COUNCIL HEREBY GIVES NOTICE that its subdivision consent given in respect of the land in the Second Schedule as shown on Land Transfer Plan 336616 is conditional inter alia upon the compliance on a continuing basis by the Subdivider and the subsequent owners of the land in the Third Schedule hereto with the conditions set forth in the First Schedule hereto unless authorised by BUN60460972.

FIRST SCHEDULE

(building restrictions) Any buildings erected on the building site on Lot 2 identified on the drawing prepared by Cato Bolam Consultants Ltd, dated May 2004 and signed and dated by Engineering Geology Ltd on 10 May, 2004, shall be located on the building site and shall be subject to the requirements of the report prepared by Engineering Geology Ltd, reference 4823, dated 7 June 2002 and any subsequent reports. Copies of the said drawing and report are held at the offices of the Council, Centreway Road, Orewa.

(bush protection) The existing native bush to be protected on Lot 1 (Areas marked B & C) shall be protected in perpetuity to the satisfaction of the Consents Manager.

The owners, or their successors in title for the time being, of the above lots:

- (i) Shall preserve the natural landscape trees, vegetation and areas of bush now thereon within that part of each lot identified as such on the survey plan; and
- (ii) Shall not (without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council) cut down, damage or destroy, or permit the cutting down, damaging or destruction of, any of such natural landscape trees, vegetation or areas of bush; and
- (iii) Shall not do anything that would prejudice the health of any of such natural landscape trees, vegetation or areas of bush; and
- (iv) Shall control all noxious plants and animals within the identified part of each lot; and
- (v) Shall maintain a stock-proof fence as approved by the Council around the perimeter of the identified part of each lot.

The owners shall be deemed not to be in breach of this covenant if any of such trees, vegetation or bush die from fire or natural causes not attributable to any act or default by or on behalf of the owners and for which the owners are responsible. Failure to comply with this condition may result in enforcement action being taken by the Council under the Resource Management Act 1991 to ensure full compliance and the continuing protection of the bush.

(monitoring) The respective owners of Lot 1 shall pay to the Council the fair and reasonable costs incurred by the Council in monitoring on ongoing conditions of consent as they apply to the Lot 1 at approximately two-yearly intervals, unless required otherwise by a legitimate complaint or as part of an area wide monitoring process. The respective owners will be advised of the costs, assessed under the Council's Schedule of Fees and Charges, as they fall due.

SECOND SCHEDULE

An estate in fee simple in 16.1874 hectares more or less being Allot 70 Parish of Waiwera comprised in Certificate of Title 913/296 Ltd (All) North Auckland Land Registry.

THIRD SCHEDULE

Lots 1 and 2 DP 336616 totalling 16.1874 hectares in area.

CONSENT NOTICE: 7405348.2

Pursuant to Section 221 of the Resource Management Act 1991 THE RODNEY DISTRICT COUNCIL HEREBY GIVES NOTICE that its subdivision consent given in respect of the land in the Second Schedule as shown on Land Transfer Plan 267330 is conditional inter alia upon the compliance on a continuing basis by the Subdivider and the subsequent owners of the land in the Third Schedule hereto with the conditions set forth in the First Schedule hereto unless authorised by BUN60460972.

FIRST SCHEDULE

(native bush and riparian revegetation protection) The existing native bush to be protected on Lot 2 (labelled X) shall be protected in perpetuity to the satisfaction of the Consents Manager.

The owners, or their successors in title for the time being, of the above lots:

- Shall preserve the natural landscape trees, vegetation and areas of bush now thereon within that part of each lot identified as such on the survey plan; and
- Shall not do anything that would prejudice the health of any of such natural landscape trees, vegetation or areas of bush and riparian areas; and
- Shall control all noxious plants and animals within the identified part of each lot; and
- Shall maintain a stock-proof fence as approved by the Council around the perimeter of the identified part of each lot.

The owners shall be deemed not to be in breach of this covenant if any of such trees, vegetation or bush die from fire or natural causes not attributable to any act or default by or on behalf of the owners and for which the owners are responsible.

Failure to comply with this condition may result in enforcement action being taken by the Council under the Resource Management Act 1991 to ensure full compliance and the continuing protection of the bush.

(weed and pest control) The landowners for the time being shall implement the Weed and Pest Control Plan approved under condition c) ii).

(building restrictions) Any buildings erected on the building site on Lot 1 shall be subject to the requirements of the report prepared by Geotech Professionals, reference 6440/05/AS, dated 28 March 2005, and any subsequent reports. Copies of the said report(s) will be held at the offices of the Council, Centreway Road, Orewa.

(limit on impermeable area) The maximum impermeable area on Lot 1 shall not exceed 455 square metres, unless a specific design for stormwater disposal is prepared by a Chartered Professional Engineer in terms of the requirements of the document "Management of Stormwater in Countryside Living (Rural and Town) Zones - A Toolbox of Methods" and approved in writing by the Consents Engineer. Copies of the said report and document are held at the offices of the Council, Centreway Road, Orewa.

(building restrictions - stormwater control) All stormwater from buildings and paved areas on Lot 1 shall be collected and disposed of in accordance with the report prepared by I L Watson, reference J1728, dated 13 September 2005. The collection and disposal system shall be installed prior to the erection of any buildings and shall thereafter be maintained to the specified capacity and standard in perpetuity.

(monitoring) The owners for the time being of Lots 1 and 2 shall pay to the Council the fair and reasonable costs incurred by the Council in monitoring the ongoing conditions of consent as they apply to the lots at not less than two-yearly intervals, unless required otherwise by a legitimate complaint. The owners will be advised of the costs, assessed under the Council's

Schedule of Fees and Charges, as they fall due.

SECOND SCHEDULE

An estate in fee simple in 16.728 hectares more or less being Lot 2 DP 205708 comprised in Certificate of Title 134A/290(Pt) North Auckland Land Registry.

THIRD SCHEDULE

Lots 1 and 2 DP 267330 totalling 16.7280 hectares in area.

APPENDIX 3: CONSENTS REQUIRED

1. RMA - Land use [s.9], subdivision [s.11], stream works [s.13], dewatering/diversion of groundwater [s.14], and discharge permits (stormwater, wastewater and air) [s.15].
2. Vegetation and land disturbance under the National Environmental Standards for Freshwater 2020.
3. Changes to conditions of Consent Notices 10576706.2, 6079871.2 and 7405348.2.
4. Heritage New Zealand Pouhere Taonga Act – s.44(a) Authority to modify and Cl.7(2)(a) of Schedule 8 approval.

APPENDIX 4: SECTION 53 FTAA COMMENTS RECEIVED

1. Minister for Regional Development
2. Ngā Maunga Whakahii o Kaipara
3. Barnaby Wallace
4. Minister for Arts, Culture, and Heritage
5. Jonathan Mason and Janet Mathewson
6. Minister for Infrastructure
7. Heritage New Zealand Pouhere Taonga
8. Minister for Māori Crown Relations and Associate Minister for Housing
9. Department of Conservation
10. Associate Minister for Transport
11. Watercare Services Limited
12. Rodney Harman
13. Auckland Council
14. Dion & Melanie & Alan Mayes
15. David Rong
16. Rod Clarke and Jenny Evans
17. Westlake Trustee Limited
18. AVJ Hobsonville Pty Limited
19. New Zealand Transport Agency
20. Tim Hussey
21. Minister of Building and Construction
22. Russel Road tenant

APPENDIX 5: SECTIONS 70 AND 72 FTAA - COMMENTS RECEIVED

Section 70: Comments on Draft Conditions

1. Janet Mathewson
2. Minister for Arts, Culture and Heritage
3. Jon Mason
4. Minister for Building and Construction
5. New Zealand Transport Agency
6. Department of Conservation
7. Heritage New Zealand Pouhere Taonga
8. Westlake Trustee Limited
9. AVID Hobsonville Pty Limited
10. Vineway Limited – Response to comments on Draft Conditions

Section 72: Comments on Draft Decision and Draft Conditions

1. Minister for Māori Development & Minister for Māori Crown Relations